

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Hon. Donald Hocker, Circuit Court Judge

Appellate Case No. 2018-000022
Lower Case No. 2015-GS-24-0535, 0536

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SC Court of Appeals

The State

..... Respondent,

vs.

Adam Rowell Appellant.

RECORD ON APPEAL
VOLUME I

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INDEX

Transcript of Trial and Sentencing dated February 13-18, 20, & 27, 2017	1
Indictments and Sentencing Sheets	1346
Post-Trial Motions	1354
Supplement #1 To Defendant's Motion For New Trial	1368
Transcript of Post-trial hearing held November 27, 2017	1377
Post-Trial Order of Judge Donald Hocker dated December 27, 2017	1423
E-mails exchanged after the hearing	1428
State's Post Trial Exhibit	1450
State's Exhibit # 68, Hospital Data Management System Audit Trail	1453
State's Exhibit #70, Transport	1454
State's Exhibit #73, SLED Forensic Services Laboratory Report	1463
Notice of Intent to Appeal	1465

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

2015-GS-24-535, -536, -537

-VS-)

TRANSCRIPT OF RECORD

ADAM MARTYN ROWELL,)

DEFENDANT.)

FEBRUARY 13-18, 20, & 27, 2017
GREENWOOD, SOUTH CAROLINA

BEFORE:

THE HONORABLE DONALD R. HOCKER, JUDGE AND A JURY

APPEARANCES:

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INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
PRETRIAL MATTERS.....	11
JURY SELECTION.....	32
OPENING STATEMENT MR. DOWTIN.....	95
OPENING STATEMENT MR. GARRETT.....	101
JOHN LONG	
DIRECT EXAMINATION.....	106
CROSS EXAMINATION.....	115
EVAN FALLAW	
DIRECT EXAMINATION.....	118
CROSS EXAMINATION.....	126
BRUNSON SMITH	
DIRECT EXAMINATION.....	132
CROSS EXAMINATION.....	164
REDIRECT EXAMINATION.....	183
RECROSS EXAMINATION.....	187
DR. JOHN CATHCART	
DIRECT EXAMINATION.....	189
CROSS EXAMINATION.....	197
REDIRECT EXAMINATION.....	201
BRUNSON SMITH	
REDIRECT EXAMINATION.....	203
RECROSS EXAMINATION.....	204
CODY BISHOP	
DIRECT EXAMINATION.....	212
CROSS EXAMINATION.....	233
REDIRECT EXAMINATION.....	
LOWENNA PRESTEL	
DIRECT EXAMINATION.....	235
MATTHEW SANDERS	
DIRECT EXAMINATION.....	242
CROSS EXAMINATION.....	

REDIRECT EXAMINATION.....	274
RECROSS EXAMINATION.....	275
DERRICK RASH	
DIRECT EXAMINATION.....	276
DERRICK OLIVER	
DIRECT EXAMINATION.....	285
CROSS EXAMINATION.....	
REDIRECT EXAMINATION.....	303
RECROSS EXAMINATION.....	304
LARRY PATRICK KIDD	
DIRECT EXAMINATION.....	307
CROSS EXAMINATION.....	321
MANLEY HARRIS	
DIRECT EXAMINATION.....	325
CROSS EXAMINATION.....	329
DR. BRADLEY SNOW	
DIRECT EXAMINATION.....	337
CROSS EXAMINATION.....	359
REDIRECT EXAMINATION.....	369
KELLY ANDERSON	
DIRECT EXAMINATION.....	378
CROSS EXAMINATION.....	416
REDIRECT EXAMINATION.....	444
TOMMY BROOKS	
DIRECT EXAMINATION.....	446
CROSS EXAMINATION.....	453
AL DUNCAN	
DIRECT EXAMINATION	457
CROSS EXAMINATION.....	491
REDIRECT EXAMINATION.....	495
KRISTOPHER BRATCHER	
DIRECT EXAMINATION.....	496
CROSS EXAMINATION.....	506
ANGELA WAITE	

DIRECT EXAMINATION.....	510
EMILY SOUTHERLAND	
DIRECT EXAMINATION.....	528
CROSS EXAMINATION.....	537
ANGELA WAITE (IN CAMERA)	
DIRECT EXAMINATION.....	574
CROSS EXAMINATION.....	581
AMANDA BAKER (IN CAMERA)	
DIRECT EXAMINATION.....	586
CROSS EXAMINATION.....	591
ROBERT SMITH (IN CAMERA)	
DIRECT EXAMINATION.....	595
CROSS EXAMINATION.....	601
REDIRECT EXAMINATION.....	613
ROBERT SMITH (IN CAMERA)	
EXAMINATION.....	617
DR. JOHN REDDIC (IN CAMERA)	
EXAMINATION.....	647
ANGELA WAITE	
DIRECT EXAMINATION.....	647
CROSS EXAMINATION.....	653
AMANDA BAKER	
DIRECT EXAMINATION.....	660
CROSS EXAMINATION.....	668
ROBERT SMITH	
DIRECT EXAMINATION.....	672
CROSS EXAMINATION.....	692
DEFENSE MOTION.....	706
DR. JOHN REDDIC	
DIRECT EXAMINATION.....	722
CROSS EXAMINATION.....	742
REDIRECT EXAMINATION.....	761
RECROSS EXAMINATION.....	764

LESLIE CHILDERS

DIRECT EXAMINATION.....770

CROSS EXAMINATION.....775

RODNEY FRICK

DIRECT EXAMINATION.....777

DEFENSE MOTION

DR. JIMMIE VALENTINE (IN CAMERA)

DIRECT EXAMINATION.....799

CROSS EXAMINATION.....813

REDIRECT EXAMINATION.....820

JENNIFER BROWN

DIRECT EXAMINATION.....828

JENNIFER BROWN (IN CAMERA)

DIRECT EXAMINATION.....846

CROSS EXAMINATION.....851

REDIRECT EXAMINATION.....868

JENNIFER BROWN

DIRECT EXAMINATION (RESUME).....875

CROSS EXAMINATION.....887

REDIRECT EXAMINATION.....891

STACY MATTHEW

DIRECT EXAMINATION.....897

CROSS EXAMINATION.....905

RON MCGAHEE

DIRECT EXAMINATION.....914

CROSS EXAMINATION.....926

REDIRECT EXAMINATION.....927

SAMANTHA BYRD

DIRECT EXAMINATION.....928

CROSS EXAMINATION.....933

TIERA BOYTER

DIRECT EXAMINATION.....934

CROSS EXAMINATION.....950

REDIRECT EXAMINATION.....952

MATTHEW SIMMS

DIRECT EXAMINATION.....	959
CROSS EXAMINATION.....	1003
REDIRECT EXAMINATION.....	1008

JUSTIN LEE PENNINGTON

DIRECT EXAMINATION.....	1011
CROSS EXAMINATION.....	1018
REDIRECT EXAMINATION.....	1028
RECROSS EXAMINATION.....	1029

GENE ROWELL

DIRECT EXAMINATION.....	1030

MATTHEW SIMMS

REDIRECT EXAMINATION.....	1033
RECROSS EXAMINATION.....	1034

DR. JIMMIE VALENTINE

DIRECT EXAMINATION.....	1037
CROSS EXAMINATION.....	1118
REDIRECT EXAMINATION.....	1145

ADAM ROWELL

DIRECT EXAMINATION.....	1149
CROSS EXAMINATION.....	1177

CLOSING ARGUMENTS.....	1221

CHARGE OF THE COURT.....	1299

VERDICT.....	1315

SENTENCE.....	1322

CERTIFICATE OF REPORTER.....	1345

E X H I B I T S

STATE'S EXHIBITS	ID	EVIDENCE
NO. 1 CD IN CAR VIDEO SMITH		141
NO. 2 ADVISEMENT OF RIGHTS		154
NO. 3 URINE/BLOOD COLLECTION REPORT		154
NO. 4 GREENVILLE CHAIN OF CUSTODY		154
NO. 5 BLOOD VIALS/URINE SAMPLE	157	903
NO. 6 PHOTO ON BOARD		161
NO. 7 PHOTO	215	218
NO. 8 PHOTO	215	218
NO. 9 PHOTO	215	218
NO. 10 PHOTO	215	218
NO. 11 PHOTO	215	218
NO. 12 PHOTO	215	218
NO. 13 PHOTO	215	218
NO. 14 PHOTO	215	218
NO. 15 PHOTO	215	218
NO. 16 PHOTO	215	218
NO. 17 PHOTO	215	218
NO. 18 PHOTO	215	218
NO. 19 PHOTO	215	218
NO. 20 PHOTO	215	218
NO. 21 PHOTO	215	218
NO. 22 PHOTO	215	218
NO. 23 PHOTO	306	395
NO. 24 PHOTO	306	395
NO. 25 PHOTO	306	395
NO. 26 PHOTO	306	395
NO. 27 PHOTO	306	395
NO. 28 PHOTO	306	395
NO. 29 PHOTO	306	395
NO. 30 PHOTO	306	395
NO. 31 PHOTO	306	395
NO. 32 PHOTO	306	395

NO. 33	PHOTO	306	395
NO. 34	PHOTO	306	395
NO. 35	PHOTO	306	395
NO. 36	PHOTO	306	401
NO. 37	PHOTO	306	401
NO. 38	PHOTO	306	401
NO. 39	PHOTO	306	401
NO. 40	PHOTO	306	401
NO. 41	PHOTO	306	401
NO. 42	PHOTO	306	401
NO. 43	PHOTO	306	401
NO. 44	PHOTO	306	401
NO. 45	PHOTO	306	401
NO. 46	PHOTO	306	401
NO. 47	PHOTO	306	401
NO. 48	PHOTO	306	401
NO. 49	PHOTO	306	401
NO. 50	PHOTO	306	401
NO. 51	PHOTO	306	401
NO. 52	PHOTO	306	401
NO. 53	PHOTO	306	401
NO. 54	PHOTO	306	401
NO. 55	PHOTO	306	401
NO. 56	PHOTO	306	468
NO. 57	PHOTO	306	468
NO. 58	PHOTO	306	468
NO. 59	PHOTO	306	468
NO. 60	PHOTO	306	468
NO. 61	EMS RUN SHEET FORMER CTS 8		320
NO. 62	CD K ANDERSON VIDEO	409	410
NO. 63	CHEVY REPORT	464	467
NO. 64	ACM BOX	466	467
NO. 65	CAD	500	503
NO. 66	CAD ANIMATION CD 1	503	504

NO. 67	CAD ANIMATION CD 2	503	504
NO. 68	HOSPITAL RECORD	542	730
NO. 69	TESTING REPORT	548	735
NO. 70	LIFE FLIGHT FORMER CT 10		768
NO. 71	SLED CHAIN OF CUSTODY	783	838
NO. 72	SLED REPORT	783	843
NO. 73	SLED REDACTED REPORT	783	903
NO. 74	PHOTO	1183	1205
NO. 75	PHOTO	1183	1205

DEFENSE EXHIBITS		ID	EVIDENCE
NO. 1	CAD REPORT	115	117
NO. 2	PHOTO FORMER CT 1		173
NO. 3	PHOTO FORMER CT 2		173
NO. 4	PHOTO FORMER CT 3		173
NO. 5	PHOTOS (5)		173
NO. 6	2 PHOTOS OF BAG	188	189
NO. 7	PHOTO	416	431
NO. 8	PHOTO	416	1167
NO. 9	PHOTO	416	427
NO. 10	PHOTO	416	428
NO. 11	PHOTO	416	430
NO. 12	PHOTO	416	433
NO. 13	CD WALMART VIDEO		921
NO. 14	CD WALMART VIDEO		921
NO. 15	RECEIPT HOT SPOT		920
NO. 16	POSTER PHOTO		923
NO. 17	POSTER PHOTO		925
NO. 18	VALENTINE PRESENTATION CD	1147	
NO. 19	RECEIPT HOT SPOT	1148	1152
NO. 20	ATM RECEIPT		1166
NO. 21	MATT SIMS CD	1148	

COURTS EXHIBITS	ID	EVIDENCE
NO. 1 ENLARGED PHOTO	168	
NO. 2 ENLARGED PHOTO	168	
NO. 3 ENLARGED PHOTO	168	
NO. 4 DEFENSE VOIR DIRE		
NO. 5 MAIT REPORT		
NO. 6 SEARCH WARRANT		
NO. 7 SEARCH WARRANT	203	
NO. 8 EMS PATIENT CARE REPORT	293	Changed to State's 61
NO. 9 TRANSCRIPT		
NO. 10 LIFE FLIGHT REPORT	768	
NO. 11 SURGICAL RECORD	683	
NO. 12 DPS CHAIN OF CUSTODY	784	
NO. 13 BLOOD REPLACEMENT	801	
NO. 14 HEADSPACE	845	
NO. 15 HEADSPACE LOG	845	
NO. 16 TIME CALCULATION SHEET	853	
NO. 17 QUANTITATION REPORT	853	
NO. 18 HEADSPACE LOG	853	
NO. 19 SLED TOXICOLOGY	853	
NO. 20 SLED TOXICOLOGY	853	
NO. 21 SIMS CD UNREDACTED	1148	
NO. 22 DEF JURY CHARGE 4 PAGES	1206	
NO. 23 VALENTINE POWERPOINT	1207	
NO. 24 JURY CHARGE		
NO. 25 JURY NOTE	1314	
NO. 26 Ninety Six incident report		
NO. 27 Ninety Six incident report		
NO. 28 in car video		
NO. 29 Ticket		

1 TRIAL DAY 1: February 13, 2017

2 (Whereupon, pre-trial matters in the trial of the case
3 of the State v Adam M. Rowell began at 12:10 p.m.)

4 THE COURT: We're on the record this afternoon in the
5 first case that will be called to trial, State v Adam Martyn
6 Rowell. I've got before me three indictments, two for
7 felony driving under the influence and one open container.
8 The State is represented by Mr. Micah Black and Mr. Wade
9 Downtin. The Defense is represented by Mr. Billy Garrett,
10 Mr. Carson Henderson, and Ms. Jane Merrill. The Court and
11 the lawyers have had a somewhat short discussion in chambers
12 concerning pre-trial matters.

13 Mr. Henderson, I'm going to impose on you. The areas
14 that I think there is an agreement and understanding on, can
15 you just announce those on the record and I'll get -- and
16 these were issues, for the most part, raised by the Defense.
17 I'll get the Solicitors, on the record, to acknowledge their
18 agreement. If you'll do the ones we've agreed on first, and
19 then we can get into the ones that there is not an agreement
20 on.

21 MR. HENDERSON: I'll be glad to, Your Honor. First of
22 all, the State has agreed that there will be no mention at
23 trial that Mr. Rowell was a former police officer.

24 THE COURT: Is that correct, Solicitor?

25 MR. BLACK: Yes, sir, Your Honor. Like we discussed in

1 chambers briefly, I've talked briefly about several of these
2 issues with the witnesses that this could come into
3 potential conflict with, and have advised them that this is
4 the likely ruling that The Court will impose.

5 THE COURT: Right. And as I indicated, if either side
6 needs any assistance from the Court as far as making sure
7 that witnesses are aware of what can be brought out or not
8 brought out, then I'll be glad to assist. Second?

9 MR. HENDERSON: The State has agreed not to put up any
10 evidence that there was an insurance settlement in this
11 matter.

12 MR. BLACK: Yes, sir, Your Honor. That is correct.

13 MR. HENDERSON: The State has agreed not to go into Mr.
14 Rowell's pending arrest or any other prior involvement with
15 law enforcement, Your Honor.

16 MR. BLACK: And that's for the purposes of trial, yes,
17 sir, Your Honor.

18 MR. HENDERSON: Those are the issues that we agreed on,
19 Your Honor.

20 THE COURT: Can you go ahead then and let's list out,
21 before we get into each one, let's list out what we're going
22 to do pre-trial, and then I think we're going to have an
23 area or two that we decided just because of getting in
24 witnesses that we'll just have to deal with it in the case
25 as it comes up. But, first of all, let's list what we have

1 pre-trial that we will need to do, either before we break
2 for lunch or after jury selection.

3 MR. HENDERSON: Your Honor, the Defense would make a
4 motion to suppress and redact any evidence, be it
5 photographic, video, verbal testimony, of any alleged
6 alcohol containers found in our client's vehicle, the
7 decedent's vehicle, or in and about either of those two
8 vehicles, Your Honor.

9 THE COURT: All right. Secondly?

10 MR. HENDERSON: I think we told you that right now we
11 don't anticipate any video issues. So next would be the
12 blood draws. Again, we would challenge the sufficiency of
13 the chain of custody on both draws, as well as the substance
14 and reliability of both draws.

15 THE COURT: Related to the chain of custody, as to the
16 medical draw it's my understanding that -- assuming it stays
17 in -- that rulings are not in favor of the Defense as far as
18 other arguments. But as it relates to chain of custody, on
19 the medical draw, we cannot do that pretrial because of just
20 getting chain of custody witnesses from Greenville and
21 having them come back to trial, so we'll just deal with the
22 chain of custody issue as it relates to the medical draw
23 once we get into the case. Is that correct?

24 MR. BLACK: That is correct, Your Honor. The State
25 anticipates -- there's only two people on this medical draw.

1 There is the nurse that took it and the lab tech that
2 received it and ran -- put it in the machine. So it should
3 be relatively quick and painless. Like you stated, Judge,
4 they're in Greenville and I'm shooting for them -- at this
5 rate we would probably need them on Thursday and I would
6 hate to have them come down here twice.

7 MR. HENDERSON: And also the chain of custody on the
8 legal draw as well, Your Honor.

9 THE COURT: I think, Solicitor, you may have indicated
10 we could more than likely do that pretrial?

11 MR. BLACK: Judge, we'll have -- in terms of people
12 getting here, I think the trooper -- well, the nurse that
13 drew the blood also is in Greenville, Judge. She is also in
14 Greenwood, but she immediately handed it to the trooper who
15 brought it and took it to evidence.

16 THE COURT: Well, as far as the chain of custody issue
17 related to the legal draw, it looks like that is more than
18 likely going to have to be done when it comes up during the
19 trial, so we will reserve that for during the trial. But,
20 to go back, I think we can deal with pretrial your defense
21 arguments as to the reliability, et cetera, concerning both
22 draws. Can we not do that pretrial?

23 MR. HENDERSON: One moment, Your Honor. We can, Your
24 Honor.

25 THE COURT: And that goes to the...

1 MR. BLACK: Judge, ultimately the State's opinion is
2 that reliability goes to weight and not admissibility. So,
3 whatever the Defense wants to put up is fine with us, but we
4 obviously feel that your ruling will be dependant on what
5 you hear in trial.

6 THE COURT: You know, if the Defense feels compelled to
7 raise something pretrial and they want some sort of ruling
8 in limine I will be glad to accommodate them as I will
9 accommodate the State if you feel that something needs to be
10 dealt with pretrial.

11 MR. BLACK: Yes, sir.

12 THE COURT: Okay. All right. Anything else pretrial,
13 Mr. Henderson, based upon our conversation in chambers?

14 MR. HENDERSON: I don't believe so, Your Honor. Not
15 that I see.

16 THE COURT: So it looks like, then, we need to deal with
17 pretrial the issue of alcohol containers found in both
18 vehicles and this reliability of the blood alcohol content
19 analysis with respect to both draws. Chain of custody will
20 just be dealt with when we get into the trial. Okay. All
21 right. Well, let's go ahead and deal with the first issue
22 concerning alcohol containers found in either vehicle. That
23 will be a Defense raised issue, so either Mr. Henderson or
24 Mr. Garrett, I'll be glad to hear from you.

25 MR. HENDERSON: If I may approach, Your Honor.

1 THE COURT: Okay.

2 MR. HENDERSON: Here's a copy for you and for Callie.

3 THE COURT: What Defense has just handed me is -- well,
4 it's a copy of 64-4-110. It would look like the Department
5 of Public Safety, some policy and procedures as it relates
6 to this issue. An order in another case, this order having
7 been issued by -- I should've recognized the initials --
8 Judge Griffith, and some other materials related to some
9 other cases maybe of a similar nature. Preliminary hearing
10 transcript in this case as well as a telephonic interview
11 with a K.B. Smith. Do you have all this, Solicitor?

12 MR. BLACK: Yes, sir. Mr. Henderson just handed it to
13 us, Your Honor.

14 THE COURT: Okay. All right. Okay, Mr. Henderson.
15 I'll be glad to hear from you.

16 MR. HENDERSON: Your Honor, I've also got three photos
17 marked as Court's Exhibits, and these are photos that the
18 Solicitor's Office gave us in Discovery.

19 THE COURT: They are photos of what, Mr. Henderson?

20 MR. HENDERSON: Your Honor, I will identify them before
21 I hand them up to you. The first one, again, there is a
22 date on the bottom right that is incorrect. This did not
23 happen on June 25, '14. This is a photo of Mr. Rowell's
24 vehicle. Your Honor, I want you to pay close attention to
25 the bottom left of the photo at Mr. Rowell's sunglasses.

1 Photo number two is of the backseat of Mr. Rowell's vehicle,
2 again, taken on November 15, '14. There is a Red Stripe
3 beer bottle, or what purports to be a Red Stripe beer bottle
4 in the back seat. On Court's Exhibit number three, which is
5 again the back of Mr. Rowell's vehicle. Again, it's
6 misdated. This did not happen on June 25, 2014. There is
7 again what purports to be a Red Stripe beer bottle in the
8 back seat. It is laying on Mr. Rowell's sunglasses.

9 Your Honor, in this matter, any alleged alcohol
10 containers -- they've got all sorts of photographs.
11 Photographs of Mr.- Rowell's car, the decedent's car with
12 alcohol in it, or what purports to be alcohol, pictures on
13 the ground of what purports to be alcohol. Again, nothing
14 has been saved in this matter at all. No containers have
15 been saved from Mr. Rowell's vehicle. No containers were
16 saved from the decedent's vehicle. As far as I know, no
17 containers were picked up from off the ground. Again,
18 they're talking about all of this alcohol, but none of it
19 has been saved.

20 Your Honor, if I may go through the documents that I
21 have provided His Honor. The code section here -- my client
22 has been indicted for open container, 61-4-110. What the
23 law prohibits -- the law doesn't prohibit you from having an
24 open empty beer bottle in your vehicle. I can drive around
25 with all the open empty beer bottles I want to, assuming

1 that one is even there. What the law prohibits is having
2 liquids in that container that is alcohol, that is beer. It
3 is by containing one half to one percent or more of alcohol.
4 That's what the law prohibits. What we've got here is a
5 group of pictures without the physical item and also without
6 any examination of what may have been in any of these
7 physical items. So that deals with the statute.

8 Your Honor, always looking at the Highway Patrol policy
9 -- it's the Department of Public Safety policy on evidence
10 preservation. That's what this policy is, 300.15 that was
11 issued on June 4, 2009. All these troopers are well
12 familiar with this policy. I think they said they're going
13 to bring up Trooper Smith for something and I'm sure he will
14 confirm to His Honor that he is well aware of this policy
15 that's it's a directive to insure the proper collection,
16 preservation, control of evidence and property. Your Honor,
17 you actually read into it on page four of this policy under
18 Roman Numeral paragraph 9 Alcohol. It even has a special
19 section for what we do to preserve alcohol evidence, so it's
20 not like the Highway Patrol out here did not know that they
21 have got to -- if they have got something on the scene that
22 they believe has got alcohol or contains alcohol they know
23 to collect it, bag it, take it down to their central
24 evidence lab, and do what they need to do to preserve it for
25 trial.

1 Again, paragraph 9 talks about they don't dispose of it
2 until trial. Again, if you look on page 5 under paragraph
3 Roman Numeral 14, crash evidence. Again, any evidence
4 related to a crash. Again, arguably this is related to a
5 crash to keep all this stuff. They didn't do it. Disposal
6 of evidence until the case is over. You don't dispose of
7 evidence. So I think the policy is real informative, Your
8 Honor. And I've looked and I don't see any reported
9 appellate decisions in our state on the open container
10 issue, the government having to preserve it. I've looked
11 and I don't see any, but Judge Griffith has addressed this
12 issue and Judge Addy has addressed this issue.

13 I've sent up an order from Judge Griffith under this
14 State v Boland where Judge Griffith believes that you've got
15 to keep the container and if they're alleging that there's
16 liquid in the container you've got to test it to confirm it
17 was beer. Otherwise, it was improper for that to even get
18 out of the starting gate, much less go to the jury. Then
19 got a Form 4 order from Judge Addy on a case Tellock where
20 Judge Addy vacated the conviction. Again, this is a case
21 where the State just didn't keep a container where they're
22 alleging was beer and didn't test any of the contents that
23 were in it. So these issues have both come in front of your
24 brother Circuit judges, Your Honor, and they're both of the
25 mindset that you've got to have the evidence and if you're

1 claiming liquid in the evidence you've got to test the
2 liquid. Looking through -- and then I've put the search
3 warrants. There are three search warrants in this matter,
4 Your Honor. I've got it in -- the first one is going to be
5 the one where they're trying to get for the legal blood and
6 alcohol draw. They got the search warrant. Did that right.
7 But there's no mention in that of there being any alcohol
8 found at the scene. I just thought that was unusual, Your
9 Honor. You know, they go into great detail about why they
10 believe there was probable cause, and there's no alcohol
11 mentioned in the search warrant affidavit as to why we're
12 going to get into that.

13 Second search warrant deals with going back to get Mr.
14 Rowell's records dealing with his medical blood draw.
15 Reading the affidavit on that where Trooper Smith, K.B.
16 Smith, said in his affidavit that there were multiple open
17 containers of beer, Red Stripe, in the passenger compartment
18 of the subject's vehicle. Again, I want to repeat that.
19 There were multiple open containers of beer, Red Stripe, in
20 the passenger compartment. Now, we've got all the photos
21 that the government is alleging that was there. At most, on
22 any of these photos, there's one Red Bull -- Red Stripe.
23 That they're claiming is Red Stripe. That just causes us
24 some concern about that. There's just no evidence to
25 support that at all, Your Honor. Again, if they had

1 accumulated and collected this evidence we would be able to
2 challenge it head on. Right now we're fighting ghosts. We
3 can't see this stuff. We can't cross examine it. We can't
4 touch it.

5 Then the last search warrant, Your Honor, this is the
6 one where they go out and they get the search warrant to go
7 out and inspect Mr. Rowell's vehicle. You'll see on the
8 return nothing was seized, but the Magistrate Judge gave
9 them the authority to collect fluid samples. Was there any
10 spilled beer. Was there any spilled liquor. Was there
11 anything in this vehicle to corroborate that Mr. Rowell was
12 actually drinking any alcohol in this vehicle. Again,
13 nothing was seized, Your Honor. I think this just speaks
14 loudly and clearly.

15 THE COURT: Let me take a look at those photos, Mr.
16 Henderson, if you don't mind.

17 MR. HENDERSON: One thing, Your Honor. The two photos
18 with the purported beer bottle in it -- the beer bottle has
19 been moved. They're in different spots.

20 THE COURT: All right. You may continue.

21 MR. HENDERSON: And then the next document will be the
22 preliminary hearing where Trooper K.B. Smith came and
23 testified under oath before the Magistrate seeking to
24 determine probable cause. Again, on page 7 line 2 the
25 Trooper is testifying under oath, "Mr. Rowell had multiple

1 open containers of beer. They were Red Striped was a brand
2 bottle. Open inside the vehicle of the truck." Clearly
3 there's just no evidence to support that at all, Your Honor.
4 Then on page 8 starting at line 19 where Mr. Garrett asked,
5 "You said multiple containers of beer, open containers of
6 beer. How many do you have possession of?" Trooper Smith
7 says, "I do not have possession of them." Mr. Garrett asked
8 where they were at, and Trooper Smith said, "I guess they
9 were loaded with the vehicle and logged into evidence.
10 Multiple. I mean, more than two. I didn't count exact."
11 And you said, "They were open?" And Trooper Smith said,
12 "Yes." If you skip down to line 17 where Trooper Smith
13 says, "It smelled like beer and one bottle did have beer
14 inside of it. I didn't check the other ones." How much was
15 in it? I'm not sure. Approximately? Mr. Garrett asked
16 him, "Any broken containers of beer?" "Not that I noticed."
17 So, again, Your Honor, you'll see in these photos there is
18 lots of glass, but that's glass from the windshield. Even
19 Trooper Smith agrees with that that the broken glass in
20 these photographs are not other beer bottles and the
21 photographs were taken. And again, Trooper Smith says, "We
22 just don't have any of that."

23 Down here on page 13, line 22, this is coming from
24 Trooper Smith on the open containers, "We have no way of
25 storing an open container of beer with alcohol in it. We

1 have no way to store it and no way to log it into evidence
2 without infesting that alcoholic beverage. We took pictures
3 of the scene. We have photographs of the open container."
4 You know, which contradicts his policy that he operates
5 under, Your Honor.

6 Then the last document is -- this is an interview with
7 Trooper Smith done on the wreck investigation. Again, he's
8 telling Trooper Kelly Anderson, who is with the MAIT Team,
9 why he believes there was probable cause to do what he did;
10 getting arrest warrants, getting search warrants. And,
11 again, not a word mentioned about any alcohol in the car,
12 Your Honor. Not nary a word. Again, I think that would be
13 very, very crucial as to whether or not our client has
14 committed the crime of open container. They've got him
15 indicted for it.

16 Long story short, Your Honor, it just causes us grave
17 concern when the government knows they've got to keep this
18 evidence. Their policy tells them they've got to keep this
19 evidence. I mean, what happens if there's a handgun in the
20 backseat and Trooper Smith takes a picture of it and goes
21 and throws away the gun and doesn't bring it into court so
22 you can challenge whether or not it's actually a handgun.
23 What happens if there's a pound of marijuana on the backseat
24 and Trooper Smith takes a picture of it, goes and throws it
25 away, and then brings the picture into the courtroom and

1 says, "Hey, there's marijuana in the car. Believe my
2 photograph." Your Honor, that just causes us some grave,
3 grave concern that even assuming that Trooper Smith was
4 right that he believes there's some liquid in one of these
5 bottles, that would be -- that's the only evidence they've
6 offered that our client violated the issue of open
7 container. By his own admission he destroyed that evidence
8 without testing it to confirm whether it's purportedly
9 alcohol as required by the open container section.

10 Again, Your Honor, we believe that all of this stuff
11 needs to be redacted and suppressed because, again, there's
12 open beer cans and stuff in the decedent's vehicle. I just
13 figure what's good for the goose is good for the gander.
14 All this stuff needs to be omitted and excluded from getting
15 before the jury because, again, it's destroyed evidence.
16 There's no way for anybody to be able to cross examine or
17 challenge this material at all, because it just doesn't
18 exist. It's been destroyed, and the government is the one
19 that destroyed it, not us.

20 THE COURT: All right.

21 MR. HENDERSON: Again, that's our motion on that matter,
22 Your Honor.

23 THE COURT: Thank you very much. Does the State want to
24 respond?

25 MR. BLACK: Yes, sir. Just briefly. I'm not going into

1 too deep of depth, but like I mentioned in chambers, Your
2 Honor, about this particular issue we feel that it's a
3 weight issue for the jury to judge. For Mr. Henderson to
4 get up there and say that they won't be able to cross
5 examine the trooper or any of the troopers out there about
6 this particular issue I think there's plenty of fodder for
7 them to go after the troopers and cross examine them about
8 these issues. Judge, I hate to make light of the situation,
9 but kind of like the old saying, "If it looks like a duck,
10 if it walks like a duck, talks like a duck, it probably is a
11 duck." There's plenty of evidence to show that this
12 particular bottle -- these pictures are the alcohol that the
13 State is purporting it to be. I think from the pictures you
14 can clearly see there are Red Stripe bottle. All of the
15 troopers have told us and I think likely we can take
16 judicial notice that Red Stripe contains 5% alcohol. That's
17 pretty standard. I don't think there's any if, ands, or
18 buts about that, Judge.

19 In terms of the search warrant not mentioning the
20 alcohol, that was the first search warrant that was issued.
21 I think that on that particular search warrant there was a
22 highway patrolman in Greenville that got a call from the
23 Greenwood office. They went to the magistrate up in
24 Greenville and got the search warrant. That's just
25 information that is being relayed over the phone. The

1 second search warrant that the trooper, the arresting
2 officer, made does show that indeed he noticed alcohol,
3 smelled alcohol at the scene. Obviously there are pictures
4 there to back it up.

5 Your Honor, there was also a video that was taken by
6 Kelly Anderson. She is a member of the MAIT Team. She
7 responded that evening. On that particular video at minute
8 23:20 there is a bottle and it appears to be a beer bottle.
9 Not open container. It's not -- Your Honor, there is a beer
10 bottle and the cap is closed. The beer bottle has not been
11 breached. It has not been opened. But you can clearly see,
12 based on the video, clearly the sweat beads bleeding off of
13 that particular bottle. While, indeed, this particular
14 bottle isn't opened, we think it actually goes towards the
15 Red Stripe. It kind of substantiates the open beer bottle
16 that, I believe, you have the pictures of up there, Your
17 Honor.

18 THE COURT: The video now is of a Red Stripe beer bottle
19 and it's located where?

20 MR. HENDERSON: It's not a Red Stripe beer bottle.

21 MR. BLACK: No, sir, Your Honor. I can show --

22 MR. HENDERSON: You can't even read the label on it,
23 Your Honor. And on top of that, where's the bottle at?

24 THE COURT: Okay. I've got you.

25 MR. BLACK: Judge, we're not alleging that this is an

1 open container. The cap is clearly on this particular
2 bottle. We're just showing that in this picture you can
3 clearly see the sweat beads off of this beer can showing
4 that it's --

5 THE COURT: And this bottle is located where?

6 MR. BLACK: In the Defendant's vehicle. So, Judge, just
7 to kind of summarize our arguments. I'm not going to repeat
8 myself numerous times, but this is a weight issue. We feel
9 that Judge Addy and Judge Griffith both got it wrong, and in
10 this particular case you shouldn't throw out the open
11 container law. You should let the jury be the judge of that
12 and let them decide for themselves. They clearly have
13 enough evidence to cross examine the troopers about it and
14 whoever was at the scene that day. They've got pictures,
15 they've got photographs. Honestly, Judge, I would argue
16 that it would be unfeasible for the State to collect all of
17 these open containers, send them down to SLED. I would
18 argue that SLED would turn them away. They wouldn't even
19 test this for alcohol. They have enough of a backlog, which
20 I know you are very well aware of, Judge.

21 THE COURT: Mr. Henderson, anything in brief response?

22 MR. HENDERSON: Very brief, Your Honor. If you look at
23 these photos and you look at this video and we'd like to get
24 -- if the State can figure out how to take a screen shot of
25 that particular second of the video we'd like to make it a

1 Court's Exhibit as well from the video there.

2 THE COURT: Can that be done?

3 MR. BLACK: I don't have the capability to do it here,
4 Your Honor, no, sir.

5 MR. HENDERSON: Not necessarily here. They can print
6 one off at the office and bring it, because we'd like to
7 make that a Court's Exhibit 4. Your Honor, the only people
8 out there videotaping and taking photos were government
9 agents. If you look at the photos we gave you same location
10 in the car, one thing the bottle is not there. The other
11 two photos the bottle is in different places. Now we've got
12 a video that's got a bottle that's clearly not a Red Stripe
13 bottle. And you go back and look at the photos. The photos
14 from the car that show no other closed unopened bottle of
15 any type, Your Honor. Again, the government is the only one
16 that's had any control of any of this. Again, we don't know
17 what it is, who's moving stuff around, who's putting stuff
18 in the vehicle, who's taking stuff out of the vehicle.

19 If you look at this beer bottle, or whatever they're
20 purporting to be a beer bottle, it's laying down, Your
21 Honor. So if anything it would have to be empty, just based
22 upon the photographs they took of it. Again, they've gone
23 through and examined this car for fluids and, you know,
24 alcohol. Anything that can corroborate open container.
25 There's nothing there. There's just nothing there, Your

1 Honor. Again, this is not a weight issue. We've got an
2 absolute, fundamental, constitutional right to be able to
3 cross examine the government's evidence, not the people who
4 allegedly collected the evidence, but the evidence. I think
5 our legislature, in their infinite wisdom, with 61-4-110,
6 have set forth a threshold that if the government is going
7 to claim that there's actually beer in a container it's got
8 to be tested to confirm it's beer. Otherwise, an empty beer
9 bottle or anything is not illegal to have. Assuming that
10 they can show it's a beer bottle. Your Honor, that's not a
11 weight issue. That's not a weight issue at all. Again,
12 they want to come in and bring in people that believe that
13 he smelled like alcohol. Fine. I anticipate that coming in
14 anyway, but they've got all this evidence here and got him
15 indicted for something that they've actually thrown away the
16 evidence. Willfully threw away the evidence. That just
17 causes us grave concern.

18 MR. BLACK: Judge, I don't know the facts of these other
19 cases. I don't purport to claim to know any of the facts.
20 I don't know if there were pictures. I don't know if the
21 trooper testified. I don't know if they did any pictures at
22 all. So, obviously we think in this case there is a
23 distinguishable difference. There is pictures. They can
24 talk to the trooper. They can cross examine him about these
25 particular beer bottles. Like Mr. Henderson stated, the

1 trooper did admit, I think in his prelim -- I don't know the
2 date of the prelim, but it was around the date of the wreck
3 happened. He did say that he smelled beer and one of the
4 bottles did have beer inside of it, one of the open
5 containers did. Judge, this is a weight issue. It's very
6 simple.

7 MR. HENDERSON: And again, the government didn't produce
8 that evidence to us, Your Honor, about that there was
9 allegedly beer in the container. That's from his
10 preliminary hearing. That's just further egregious that the
11 government, I guess, didn't even know that their officer is
12 giving this version of events that he's out there willfully
13 destroying evidence.

14 THE COURT: Okay.

15 MR. HENDERSON: And that's one reason we're presenting
16 it to the Court. Your Honor, I can give you a little
17 factual background on this case. It's Ms. Tellock. I
18 actually represented Ms. Tellock. She was arrested for open
19 container and on the video you can see the trooper clearly
20 pouring out a liquid from a container, and he charged her
21 with open container. The Court said hey, you didn't keep --
22 at the very least you didn't keep the open container. And
23 the inference would be next that you didn't have it tested.
24 I think Judge Griffith's exact same issue. Chad Jenkins was
25 the one who defended Mr. Boland down in Newberry. So, I

1 mean, you've got very similar issues. On this issue there's
2 nobody dumping out anything I guess, but Trooper Smith, he
3 may have gone and dumped something out. I don't know. None
4 of this stuff is here.

5 THE COURT: All right. Thank you very much. I'll take
6 this under advisement under lunch and let you know when we
7 start back this afternoon. There was one other issue, Mr.
8 Henderson, that I don't think was agreed to and we probably
9 need to deal with after lunch after we pick a jury. Since
10 we do have the blood analysis for the legal draw and the
11 medical draw the Defense does not want the State to make any
12 mention of that in opening. The fact that we can't fully
13 vet that issue because we've got chain of custody in the
14 middle of the trial, that's an issue that we're going to
15 have to argue as well pretrial. Whether or not to allow the
16 State to mention at all during opening this blood analysis.
17 So that's an issue too that we need to --

18 MR. HENDERSON: It is, Your Honor, and I respect
19 Solicitor Black's argument about that if they don't put it
20 up, you know, that we hammer them on it if His Honor keeps
21 certain stuff out. But I'm just one of these people, if we
22 don't ever have to let the cat out of the bag, don't let the
23 cat out of the bag.

24 THE COURT: Well, I'm going to give y'all an opportunity
25 to argue that as well. Let's go ahead -- it's a quarter to

1 one. The panel is coming in at 2:00, so let's go ahead and
2 break for lunch and we'll qualify and select a jury after
3 lunch at 2:00. After that we'll go ahead and deal with the
4 rest of the pretrial matters.

5 MR. HENDERSON: And, Your Honor, we can go ahead and
6 hand up some voir dire to you.

7 THE COURT: Okay, that would be good. I do have a
8 proposed witness list from both sides. Does the State have
9 any proposed voir dire?

10 MR. BLACK: Judge, I don't have anything prepared, but I
11 was -- I think I can get with you right before jury
12 selection.

13 THE COURT: That will be fine. Thank you very much. We
14 will be in recess until 2:00.

15 (Whereupon, the court was in recess from 12:56-2:10
16 p.m. Jury qualification was not transcribed.)

17 JURY SELECTION

18 THE COURT: Okay, ladies and gentlemen. We're going to
19 go through a process. You may hear the term "voir dire" or
20 "voir dire". It's a legal term. It just consists of
21 certain questions the Court is asking the jury panel that
22 are related in some fashion to this case. The same rules
23 apply. If you want to respond to a question, but don't want
24 to respond in front of everybody, then I'm going to give you
25 an opportunity to speak to me privately.

1 There will be some questions that I will be asking that
2 I will tell you if you need to respond don't do it in front
3 of everybody and come down and speak to me privately. Then,
4 if you have any particular concerns or anything you need to
5 discuss with me, then at the end of this process we're going
6 to form a line like we did earlier and I will speak with you
7 privately.

8 The trial of this case is the State of South Carolina
9 v. Adam Martin Rowell. Mr. Rowell, if you would just stand
10 and face the panel just for a second so that they can see
11 you.

12 (Whereupon, Defendant stood.)

13 Thank you very much. You can have a seat. Rowell is
14 the correct pronunciation of the first name?

15 (Whereupon, the Defense attorneys nod head
16 affirmatively.)

17 Mr. Rowell has been indicted by the Greenwood County
18 Grand Jury with two counts of felony driving under the
19 influence. Now, before I read the indictments to you, let
20 me explain to you one thing. The fact that Mr. Rowell has
21 been indicted and charged with any criminal offense is not
22 evidence whatsoever of his guilt or innocence of committing
23 these crimes. The indictments are the charging papers to
24 get the case into court where we are today, but the
25 indictments that contain allegations concerning these two

1 counts of felony driving under the influence, the fact that
2 he's been indicted is not proof of these allegations that
3 the indictments contain.

4 Mr. Rowell has exercised his constitutional right and
5 has pled not guilty to these two charges. Consequently,
6 that plea of not guilty puts the burden on the State of
7 South Carolina to prove to a jury these allegations beyond a
8 reasonable doubt standard. I will explain a lot more about
9 that as we go through this case. I'm going to read both
10 indictments to you so you'll have some idea about what this
11 case is about. First of all, indictment 15-GS-24-535 reads
12 as follows that, "Adam Martin Rowell, on or about November
13 15, 2014, in Greenwood County, who, while under the
14 influence of alcohol drugs or a combination of alcohol and
15 drugs, did drive a vehicle and when driving the said vehicle
16 did an act forbidden by law or neglect any duty imposed by
17 law, to wit that the said defendant drove with reckless
18 disregard for the safety of others, and/or failed to change
19 the course of travel to avoid causing an accident, and/or
20 failed to slow down to avoid causing an accident, and/or
21 failed to keep a proper lookout, and/or failed to maintain
22 to keep his vehicle under proper control which act and/or
23 acts of neglect proximately caused the death of one Jeremy
24 Cockrell, in violation of Section 56-5-2945 Code of Laws for
25 South Carolina.

1 Indictment 15-GS-24-536, which charges the second count
2 of felony driving under the influence, reads as follows.

3 "That Adam Martyn Rowell, on or about November 15, 2014, in
4 Greenwood County, who under the influence of alcohol, drugs,
5 or a combination of alcohol and drugs, did drive a vehicle
6 and when driving the said vehicle did an act forbidden by
7 law or neglect any duty imposed by law, to wit drove with
8 reckless disregard for the safety of others, and/or failed
9 to change the course of travel to avoid causing an accident,
10 and/or failed to slow down to avoid causing an accident,
11 and/or failed to keep a proper lookout, and/or failed to
12 maintain to keep his vehicle under proper control which act
13 and/or acts of neglect proximately caused the death to
14 another person, Matthew Sanders, in violation of provisions
15 of Section 56-5-2945 Code of Laws for South Carolina.

16 Any member of the jury panel related by blood or
17 marriage, either now or formerly, to either Adam Martin
18 Rowell, Jeremy Cockrell, or Matthew Sanders? If so, please
19 stand.

20 (Whereupon, a member of the jury pool stood.)

21 THE COURT: Yes, sir? Your name and number?

22 JUROR: My name is Daryl Seymore. My number is 142.

23 MR. HENDERSON: Your Honor, may we have him walk up?

24 THE COURT: At the conclusion of this process, if you'll
25 just get in the line and speak to me privately; okay?

1 JUROR: Yes, sir.

2 THE COURT: Thank you, sir. Any member of the jury
3 panel have or have had in the past a close personal or
4 social relationship with either Adam Martin Rowell, Matthew
5 Sanders, or Jeremy Cockrell? If so, please stand.

6 (Whereupon, a member of the jury pool stood.)

7 THE COURT: Yes, sir? Your name and number.

8 JUROR: Jeff Phillips, 131. I work with Adam.

9 THE COURT: Excuse me?

10 JUROR: I work with Adam. He works for me.

11 THE COURT: He works for you currently?

12 JUROR: Yes, sir.

13 THE COURT: Okay. Have a seat, sir. Thank you. Let's
14 do this. Can you give me your name again, sir?

15 JUROR: Jeff Phillips.

16 THE COURT: If you will speak with me privately at the
17 conclusion of this. Just get in the line.

18 JUROR: I will.

19 THE COURT: I'm going to list or read off a list of
20 possible or potential witnesses in this case. They are as
21 follows -- and, again, they are just possible witnesses.
22 They may or may not testify. If any of the names I have
23 trouble pronouncing I will be sure to spell it. Maria
24 Simmons, Justin Pennington, Rodney Free, Trooper Brunson
25 Smith, Trooper D.J. Bron, Trooper Cody Bishop, Trooper Don

1 Turner, Sonny Cox, Derrick Rash, Trooper M.B. Harris,
2 Trooper J. - and that's just the initial "J" - Cannon,
3 Former Trooper J.C. Lusk, Trooper R.A. Frick, Trooper P.M.
4 Odom, Karen Smith, Bobby Smith, Matthew Sanders, Jennifer
5 Aycock, Amy Stephens, Leslie Childers, Dr. Bradley Snow from
6 Greenville, Dr. Brantley Paramore from Greenwood, Dr. John
7 Cathcart from Greenwood, Dr. John Reddic from Greenville,
8 Amanda Westheart, Jennifer Brown, Amanda Baker, Robert
9 Smith, Larry Kidd with EMS, Derrick Oliver with EMS, Rowena
10 Prestal, P-R-E-S-T-A-L, with EMS, Bobby Hill with EMS,
11 Angela Waites, Alfred Kelly, Trooper A.L. Duncan, Trooper
12 Kelly Anderson, Trooper T.J. Brooks, Trooper K.K. Bratcher,
13 Rhonda Cockrell, Joyce Edwards, Penny Tisdale, Emily
14 Southerland, Teresa Dewease, that's D-E-W-E-A-S-E, Evan
15 Fallaw, Wayne Findley, John Long, Brad Ware, Rachel - I
16 think it's pronounced Nguyen -- N-G-U-Y-E-N, I think is how
17 you pronounce that last name, Stacie Matthew, Celia Verdell,
18 Lindsey Mitchell, Jared Castelaney, Doris Yarborough, D.K.
19 Fouty, F-O-U-T-Y with the South Carolina Department of
20 Public Safety, Paul Hubbard, Diane Eubanks, Howard Naparlo,
21 Dr. Jimmy L. Valentine, Matt Simms, Tierra Boyter, Ron
22 Mcgahee, Justin Lee Pennington, Samantha H. Butler Byrd,
23 Brandon A. Smith, Michael Wayne Quarles, Ryan Edward Bruce,
24 Gene Rowell.

25 Any member of the jury panel related by blood or

1 marriage, either now or formerly, to any of those people I
2 have just listed, or anyone on the jury panel have or have
3 had in the past a close personal or social relationship with
4 any of those people I have just listed? If so, please
5 stand.

6 (Whereupon, several members of the jury pool stood.)

7 THE COURT: Let's just start on the left. Ma'am, your
8 name and juror number.

9 JUROR: Barbara Cooley, 31. If I can, I would just like
10 to get in line. If that's okay?

11 THE COURT: We can certainly do that. Okay. Yes, sir.

12 JUROR: Jeff Phillips, 131.

13 THE COURT: You'll speak -- right. Okay.

14 JUROR: Shannon Mounts, 117. My mother is retired from
15 the Highway Patrol and I grew up with many of those.

16 THE COURT: The fact that your mother was with the
17 Highway Patrol and you know some of these Highway Patrolmen,
18 do you believe you can be fair and impartial to both sides
19 in this case?

20 JUROR: Probably not.

21 THE COURT: Okay.

22 MR. HENDERSON: Judge, we couldn't hear her response.

23 THE COURT: She said, "Probably not." We will excuse
24 you from the trial of this case, but you stay with us.

25 Okay? I am going to list -- and some of these may have been

1 named in the witness list, but I have been requested --
2 because we have friends, family members on both sides. So I
3 am going to publish some names of some family members or
4 friends and will be asking the same question concerning
5 related by blood or marriage or personal relationships. And
6 I will ask that again, but here are some of the names of
7 family members. Mitchell Rowell, Brett Rowell, Gene Rowell,
8 Donald Rowell, Crystal Still, and Jerry Fuller. Wanda
9 Perry, Joyce Rude, Janice Byrd, Donna Tarleton, that's T-A-
10 R-L-E-T-O-N, Gail Barden, B-A-R-D-E-N, Dennis Barden, Cayden
11 Hancock, Terri Cox, Sara Christy, Kimberly Cockrell. It's
12 been requested that those individuals just stand for a
13 second and face the jury panel, please. If your name was
14 just read out.

15 (Whereupon, several people complied.)

16 Okay. All right. Thank you so much. You can have a
17 seat. Any member of the jury panel related now or formerly
18 to any of those people who I've just named and who have
19 stood up, or any member of the jury panel have or have had
20 in the past a close personal or social relationship to any
21 of those individuals. If so, please stand.

22 (Whereupon, several members of the jury panel stood.)

23 THE COURT: Yes, sir. Your name and number?

24 JUROR: Daryl Seymore, number 142.

25 THE COURT: Do you want to talk to me privately like you

1 requested earlier? Didn't you request earlier to speak with
2 me privately?

3 JUROR: That was --

4 MR. HENDERSON: I stood up and asked, Your Honor, based
5 upon the question, I thought it would be better for him to
6 come forward.

7 THE COURT: Okay. All right. Okay. Are you related or
8 have a close personal or social relationship with any of
9 those people?

10 JUROR: Yes, sir. Jerry Fuller is my first cousin.

11 THE COURT: All right. The fact that Jerry Fuller is
12 your first cousin, can you still be fair and impartial to
13 both sides in this case?

14 JUROR: Sure.

15 THE COURT: Sir?

16 JUROR: Sure.

17 THE COURT: All right. Thank you, sir. You can have a
18 seat. Yes, ma'am? Your name and number.

19 JUROR: Pamela Brown, number 17. I have a professional
20 relationship with the Plaintiff's mother. We were in
21 graduate classes together at Lander together for three
22 years.

23 THE COURT: What is her name?

24 JUROR: Michelle Rowell.

25 THE COURT: Okay. Did I say Mitchell?

1 JUROR: You did.

2 THE COURT: Okay. I apologize. I apologize. And it
3 doesn't even have a "T" in there and I said Mitchell.
4 Michelle Rowell. Michelle Rowell. Okay, you have a
5 professional relationship with Ms. Rowell?

6 JUROR: Yes.

7 THE COURT: The fact that you have a professional
8 relationship, can you be fair and impartial to both sides?

9 JUROR: Yes.

10 THE COURT: Okay. Have a seat, ma'am. Yes, sir?

11 JUROR: Tommy Graham. I don't recall what my number
12 was.

13 THE COURT: Okay.

14 JUROR: I was next-door-neighbor with Crystal Still,
15 the Still family.

16 THE COURT: Okay, the fact -- you're not currently, but
17 formerly you were?

18 JUROR: Yes, sir.

19 THE COURT: The fact that you were formerly neighbors of
20 Crystal Still, can you still be fair and impartial to both
21 sides?

22 JUROR: Yes, sir.

23 THE COURT: All right. Thank you, sir. Have a seat.
24 Yes, ma'am? Your name and number.

25 JUROR: Mary Evelyn Crocker, 35. Gail Barden is my

1 sister.

2 THE COURT: Okay. You are a sister to --

3 JUROR: Gail Barden.

4 THE COURT: Gail Barden, okay.

5 JUROR: And my brother-in-law is Dennis Barden, and I
6 know both sides of the families.

7 THE COURT: Okay. I'm going to excuse you from the
8 trial of this case. Remain with us though.

9 JUROR: Thank you.

10 THE COURT: Any member of the jury panel ever attended
11 Marshall Road Church of God? If so, please stand.

12 (Whereupon, a member of the jury pool stood.)

13 THE COURT: I have to ask this each time for the purpose
14 of maintaining the record. We have -- I haven't done some
15 introductions. I probably should have. We've got great
16 court staff here in Greenwood. They do a fantastic job.
17 Circuit courts are a court of record. We have a very
18 experienced court reporter. She has to take down
19 everything, so to maintain a proper record we can't just try
20 to remember your name and number, so you need to state it.
21 Yes, sir? Your name and number.

22 JUROR: Daryl Seymore, 142.

23 THE COURT: Yes, sir. You've attended Marshall Road
24 Church of God?

25 JUROR: Back -- it's been a few years ago.

1 THE COURT: Okay. You're not currently attending, but
2 attended in the past.

3 JUROR: Yes, sir. In the past.

4 THE COURT: Thank you, sir. You can have a seat. I'm
5 going to get the attorneys involved in this case on both
6 sides to introduce themselves and anybody with them. I know
7 all five attorneys very well. They have tried cases before
8 me in the past and I can tell you and assure the jury panel
9 that we have five excellent attorneys who have worked
10 extremely hard in preparing this case and will do an
11 extremely fine job in representing their respective sides.
12 So, I will start with the State.

13 MR. BLACK: Thank you, Your Honor. Good afternoon,
14 folks. My name is Micah Black. I am a prosecutor here in
15 the Eighth Circuit. I work primarily in Greenwood County as
16 well as Abbeville County. Also prosecuting the case with me
17 is Mr. Wade Downtin. Sitting with us is an investigator with
18 our office, Mr. Chris Wilkie.

19 MR. GARRETT: My name is Billy Garrett. I'm here to
20 represent Mr. Rowell. Mr. Henderson? Ms. Merrill?

21 MS. MERRILL: I'm Jane Merrill. I'm an attorney here in
22 Greenwood and I also represent Mr. Rowell.

23 MR. HENDERSON: My name is Carson Henderson. I am an
24 attorney here in Greenwood and I also represent Mr. Rowell.

25 THE COURT: Thank you very much. Any member of the jury

1 panel related by blood or marriage, either now or formerly,
2 or any member of the jury panel have now or had in the past
3 any close personal or social relationship with any of the
4 attorneys involved in this case or anyone in their
5 respective offices or law firms? If so, please stand.

6 (Whereupon, no member of the jury panel stood.)

7 THE COURT: Any member of the jury panel formed or
8 expressed any opinion about any issue or matter involved in
9 this case? I know that you know very little. I have
10 published the indictments to you. Have you formed or
11 expressed any opinion about any issue or matter involved in
12 this case? If so, please stand.

13 (Whereupon, no member of the jury panel stood.)

14 Any member of the jury panel aware of any bias or
15 prejudice towards either the State of South Carolina or the
16 Defendant, Adam Martin Rowell? If so, please stand.

17 (Whereupon, no member of the jury panel stood.)

18 Any member of the jury panel who is a member of or a
19 contributor of any group which has as its primary concern
20 the promotion of law enforcement or victims' rights? These
21 groups would include, but are certainly not limited to, but
22 they would include -- and I'll give you the acronyms; MADD,
23 SADD, or CAVE. If so, please stand.

24 (Whereupon, no member of the jury panel stood.)

25 Is any member of the jury panel who has a religious or

1 moral opposition to the consumption of alcohol. If so,
2 please stand.

3 (Whereupon, no member of the jury panel stood.)

4 Now, when I published the potential witness list, of
5 course, my questions were geared around being related by
6 blood or marriage, either now or formerly, or having a close
7 personal or social relationship. My next question is a
8 little bit more broad, a little bit more general as it
9 relates to the witnesses. Any member of the jury panel know
10 of any of the potential witnesses in this case through
11 whatever means your involvement in the community or
12 otherwise? So, if you just know of who they are, even
13 though you may not have a close personal or social
14 relationship, but know who they are, if you would please
15 stand at this time.

16 (Whereupon, several members of the jury panel stood.)

17 We will start on the front. Name and number?

18 POTENTIAL JUROR: Daryl Seymore, 132. I know Dennis
19 Martin and his family, and of course I'm kin on the other
20 side. On both sides.

21 THE COURT: So you know of some of the people on both
22 sides of this case, whether it's family members or potential
23 witnesses. Do you believe you can still be fair and
24 impartial to both sides in this case?

25 POTENTIAL JUROR: Yes, sir.

1 THE COURT: Okay. Have a seat. Yes, sir. Your name
2 and number?

3 POTENTIAL JUROR: Ron Gadagno, number 57. I live in the
4 same neighborhood as Wayne Findley, one of the witnesses you
5 mentioned.

6 THE COURT: Okay. The fact that you live in the same
7 neighborhood as one of the witnesses in this case, do you
8 still think you can be fair and impartial to both sides?

9 POTENTIAL JUROR: I do.

10 THE COURT: Thank you, sir. Yes, ma'am? Your name and
11 number.

12 POTENTIAL JUROR: Pamela Graham, number 17. I know
13 Terry Cox and Bobby Cox.

14 THE COURT: Okay. The fact that you know Bobby and
15 Terry Cox can you still be fair and impartial to both sides
16 in this case?

17 POTENTIAL JUROR: Yes, sir.

18 THE COURT: Okay. Thank you, ma'am. Yes, ma'am? Your
19 name and number?

20 POTENTIAL JUROR: Barbara Cooley, 31. I know also Bobby
21 and Terry Cox.

22 THE COURT: Okay. Can you still be fair and impartial
23 to both sides?

24 POTENTIAL JUROR: Yes, sir. I still want to come up
25 there.

1 THE COURT: Yes. You get in line. Yes, ma'am?

2 POTENTIAL JUROR: Michelle Stevenson, number 155. I
3 know Bobby and Terri, Rhonda Cockrell, and Sara Christy.

4 THE COURT: The fact that you know some of either the
5 family members or the potential witnesses in this case, do
6 you still believe you can be fair and impartial to both
7 sides?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Okay. Yes, ma'am?

10 POTENTIAL JUROR: Sally Sturgis-Bryan. I know D.J. Bron.

11 THE COURT: Okay, D.J. Bron, the Highway Patrolman?

12 POTENTIAL JUROR: Yes.

13 THE COURT: The fact that you know one of the Highway
14 Patrolmen, a potential witness in this case, do you believe
15 you can still be fair and impartial to both sides?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: Thank you. Yes, ma'am? Name and number?

18 POTENTIAL JUROR: Melony Parks, 126. I know the
19 physicians mentioned as witnesses, and Terry and Rhonda.
20 Through work.

21 THE COURT: The physicians and who else?

22 POTENTIAL JUROR: Terri and Rhonda. Just through Self
23 Regional.

24 THE COURT: The fact that you know some of the
25 physicians, medical people, in this case do you feel like

1 you could still be fair and impartial to both sides?

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: Okay. Thank you very much. Any member of
4 the jury panel related, either now or formerly, or have a
5 close personal or social relationship, either now or
6 formerly, with anyone employed by the Eighth Circuit
7 Solicitor's Office or South Carolina Attorney Generals'
8 Office? The Eighth Circuit Solicitor's Office -- the Eighth
9 Circuit is comprised of four counties; Greenwood, Abbeville,
10 Laurens, and Newberry. Related or close personal
11 relationship with anyone in those two offices. If so,
12 please stand.

13 (Whereupon, no member of the jury panel stood.)

14 Any member of the jury panel have had formal or
15 informal legal training? This would include, but not
16 limited to, law school, college business law courses,
17 paralegal training, law enforcement training, and/or
18 training in the course of your -- legal training in the
19 course of your particular field of employment? If that
20 applies to you, please stand.

21 (Whereupon, no member of the jury panel stood.)

22 Let me have a conference with the lawyers.

23 (Whereupon, a sidebar was held outside of the hearing
24 of the jury panel.)

25 Next question, any member of the jury panel ever been a

1 witness in a criminal case either for the State or for the
2 Defense?

3 (Whereupon, no member of the jury panel stood.)

4 Next question, any member of the jury panel currently
5 work or have previously worked at a place of business that
6 sells alcohol. Either like on the premises at a bar or
7 restaurant, or off premises like at a grocery store or at a
8 convenience store. Currently work or previously worked,
9 okay?

10 (Whereupon, several members of the jury panel stood.)

11 THE COURT: Okay, your name and number?

12 POTENTIAL JUROR: Alessondro Butler, number 20.

13 THE COURT: Okay.

14 POTENTIAL JUROR: WalMart.

15 THE COURT: All right. You currently work at WalMart?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: Okay. Thank you, sir. Your name and
18 number?

19 POTENTIAL JUROR: Austin Gavin, 22. I used to work at
20 Food Lion.

21 THE COURT: Okay. Thank you, sir. All right. Yes,
22 ma'am. Your name and number?

23 POTENTIAL JUROR: Cassandra Barr, number 9. I have
24 worked at Piggly Wiggly before.

25 THE COURT: Okay. Thank you. Yes, ma'am?

1 POTENTIAL JUROR: Sally Sturgis Brian, 156. I used to
2 work at Winn-Dixie.

3 THE COURT: Where?

4 POTENTIAL JUROR: Winn Dixie.

5 THE COURT: Winn Dixie? Okay. Thank you. Yes, sir?

6 POTENTIAL JUROR: Joshua Shaw, 144. I currently work at
7 Publix.

8 THE COURT: You currently work at Publix? Okay. Thank
9 you, sir.

10 POTENTIAL JUROR: Angela McCall, 106. Twenty years ago
11 I worked at a pizza restaurant that served beer.

12 THE COURT: Okay. All right. Thank you, ma'am. Have a
13 seat. Yes, ma'am? Name and number?

14 POTENTIAL JUROR: Number 51. I was a waitress at a
15 place that served.

16 THE COURT: Thank you. Any member of the jury panel
17 ever been a military or civilian law enforcement officer?

18 (Whereupon, no member of the jury panel stood.)

19 A civilian law enforcement officer or a military law
20 enforcement officer. If so, please stand.

21 (Whereupon, no member of the jury panel stood.)

22 I think we've already have some that have answered
23 this, it seems like. Any member of the jury panel related
24 by blood or marriage, currently or in the past, or anyone in
25 your -- or any member of the jury panel have a close

1 personal or social relationship, either now or formerly,
2 with anyone employed in law enforcement? Related by blood
3 or marriage, currently or in the past, or close personal
4 social relationship -- not just knowing, but close personal
5 or social relationship, either now or formerly, with anybody
6 employed by a law enforcement agency. If so, please stand.

7 (Whereupon, several member of the jury panel stood.)

8 THE COURT: Were you wanting to stand?

9 POTENTIAL JUROR: Yeah. I've been excused, but I --

10 THE COURT: Okay. You've been excused and you're good.
11 You can sit down. Okay. Yes, ma'am.

12 POTENTIAL JUROR: Pamela Brown, 17. I have a close
13 friend that is a State Trooper.

14 THE COURT: Okay. All right. The fact that you have a
15 close friend that is a State Trooper, can you still be fair
16 and impartial to both sides?

17 POTENTIAL JUROR: I think so.

18 MR. HENDERSON: Can we find out the name, Your Honor?

19 THE COURT: Can you give us the name of the trooper that
20 you are close friends with?

21 POTENTIAL JUROR: Cody Aga. He's a sergeant now. He
22 just got a promotion.

23 THE COURT: Thank you. All right. Yes, ma'am? Name
24 and number?

25 POTENTIAL JUROR: I am 31, Barbara Cooley. I have a

1 son-in-law that is with the Highway Patrol.

2 THE COURT: Currently?

3 POTENTIAL JUROR: Yes. And my husband is retired
4 Highway Patrol, but it would not --

5 THE COURT: Okay.

6 POTENTIAL JUROR: I would not be partial to them.

7 THE COURT: Okay. You can still be fair and impartial
8 to both sides?

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: And you still need to talk to me privately?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: Yes?

13 POTENTIAL JUROR: Sara Loveless, number 100. My son
14 works at the magistrate's office in West Columbia.

15 THE COURT: Do you think you can still be fair and
16 impartial to both sides?

17 POTENTIAL JUROR: Yes, sir.

18 THE COURT: Okay. Thank you. Have a seat. Yes, sir.

19 POTENTIAL JUROR: George Williams, number 173. Many
20 years ago my wife was a corrections officer at a state
21 prison.

22 THE COURT: Okay. All right. Do you still believe you
23 can be fair and impartial to both sides?

24 POTENTIAL JUROR: Yes.

25 THE COURT: Thank you. I'm trying to go from row to

1 row. Yes, sir. You're next.

2 POTENTIAL JUROR: Alessandro Butler, 20. I have an aunt
3 that is a Sheriff's detective and a brother who is a police
4 officer.

5 THE COURT: So you have two relatives in law enforcement
6 currently?

7 POTENTIAL JUROR: Currently, yes.

8 THE COURT: And the fact that you have two relatives in
9 relatives, do you think that would prevent you from being
10 fair and impartial or can you be fair and impartial to both
11 sides?

12 POTENTIAL JUROR: I can be.

13 MR. HENDERSON: Your Honor, can we get their names?

14 THE COURT: Can you give us the names of your two
15 relatives?

16 POTENTIAL JUROR: Sheriff's detective Dorothy Washington
17 and police officer Alexander Butler.

18 THE COURT: Thank you. Yes, sir.

19 POTENTIAL JUROR: Austin Gavin, number 22. Jim Grant
20 was my uncle with Highway Patrol.

21 THE COURT: But he is no longer with the Highway Patrol?

22 POTENTIAL JUROR: No, sir.

23 THE COURT: Can you still be fair and impartial?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: Yes, sir?

1 POTENTIAL JUROR: John Bautista. I know Ed Strickland
2 from Abbeville and Johnson Williams from the Sheriff's
3 Department.

4 THE COURT: Okay. The fact that you know them -- do you
5 have a close personal or social relationship with them?

6 POTENTIAL JUROR: Yes, sir.

7 THE COURT: Okay. Can you still be fair and impartial
8 to both sides in this case?

9 POTENTIAL JUROR: Yes, sir.

10 THE COURT: Okay. Thank you. Yes, ma'am?

11 POTENTIAL JUROR: Lorrie Barnes, number 8. My ex-
12 husband's uncle worked for the law. Roger Collins.

13 THE COURT: Okay. Your ex-husband's uncle? Can you
14 still be fair and impartial to both sides?

15 POTENTIAL JUROR: Yes.

16 THE COURT: I'm trying to determine who is next. Yes,
17 ma'am? We'll go with the lady in the red.

18 POTENTIAL JUROR: 127, my name is Linda Pate. I have
19 several -- I have had several officers in my family.

20 THE COURT: Okay. You've had several family members in
21 law enforcement?

22 POTENTIAL JUROR: In North Carolina.

23 THE COURT: In North Carolina?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: Do you believe that you can still be fair

1 and impartial to both sides?

2 POTENTIAL JUROR: Absolutely.

3 THE COURT: Thank you, ma'am. Yes, sir?

4 POTENTIAL JUROR: William Badger, number 6. I have a
5 step-son who is a city police officer, Mark Harrelson. I
6 also have a son-in-law who is a transport police officer.
7 His name is Matt Goff.

8 THE COURT: Can you still be fair and impartial to both
9 sides in this case?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: Thank you. Yes?

12 POTENTIAL JUROR: My dad is with the Greenwood City
13 Police Department, Barry McGee.

14 THE COURT: Okay. Your father is in law enforcement?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: Okay. Where is he in law enforcement?

17 POTENTIAL JUROR: Greenwood City Police Department.

18 THE COURT: Okay. What is his name?

19 POTENTIAL JUROR: Barry McGee.

20 THE COURT: The fact that your father is in law
21 enforcement, can you still be fair and impartial to both
22 sides?

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: Thank you, sir.

25 MR. HENDERSON: We didn't get his juror number, Your

1 Honor.

2 THE COURT: Can you give us your juror number?

3 POTENTIAL JUROR: I believe it is 108.

4 THE COURT: Thank you.

5 Now, these next questions -- and I'm going to number
6 them right before I read the questions. These next
7 questions, if you need to respond just keep a good mental
8 note of the question and your response and you'll speak with
9 me privately. I don't even need for you to stand, okay?
10 But I do need for you to keep a good mental note so you can
11 speak with me privately. I'm going to go ahead and tell you
12 there will be one, two, three, four, five, six, seven,
13 eight, nine -- there's going to be eleven questions. Okay?
14 So, you're going to have to pay really good attention and
15 keep good memory, okay?

16 Question one, any member of the jury panel or any
17 member of your immediate family members or close personal
18 friends ever been arrested and charged with any criminal
19 offense through whatever state, local, or federal law
20 enforcement agency? It's actually ten questions. I
21 misspoke.

22 Next question, any member of the jury panel believe
23 that a person cannot drive a vehicle safely after drinking
24 alcohol, regardless of the amount of alcohol consumed?

25 Next question, any member of the jury panel believe

1 that a person who drinks any amount of alcohol and then
2 drives an vehicle should be automatically guilty of DUI?

3 Next question, any member of the jury panel believe
4 that if a person admits to drinking some alcohol and then
5 drives a vehicle that this alone would be enough for you to
6 find that person guilty of DUI?

7 Next question, any member of the jury panel believe the
8 sworn testimony of a law enforcement officer over the sworn
9 testimony of a defendant and/or the witness for a defendant?

10 Next, if evidence is provided that the defendant
11 provided a urine test sample and/or a blood test sample in
12 this case, any member of the jury panel base his or her
13 verdict solely on the results of that test?

14 Next question, any member of the jury panel ever posted
15 online comments in response to articles published in the
16 Greenwood Today, Index Journal, and/or other sites which
17 allow readers to post comments on articles?

18 Next, any member of the jury panel regularly read the
19 comments which appear in response to articles published in
20 the Greenwood Today, Index Journal, or other sites which
21 allow readers to post comments on articles?

22 Next question, any member of the jury panel or any of
23 your immediate family members or close personal friends ever
24 been involved in an automobile accident when a person was
25 accused of driving under the influence?

1 Next question, any member of the jury panel, any of
2 your immediate family members or close personal friends,
3 ever been the victim of a violent crime?

4 Now, if any of those questions need to be read again I
5 will read all ten of them again, because I don't want to
6 single anybody out with respect to any particular question.
7 So, even though you may just want one question read again of
8 the ten I've told you do not respond to, just raise your
9 hand and I will re-read all ten questions. Anybody want
10 them read again?

11 (Whereupon, there was no response from the jury panel.)

12 Now, this is the time to get in a line and speak to me
13 privately about any of the prior questions, about any
14 concerns, those questions I told you don't respond to in
15 front of everybody, or anything else you need to speak
16 privately with. Okay? Form a line, please.

17 THE COURT: Your name and number?

18 JUROR: Reginald Sprowl. I'm not sure of my number.

19 THE COURT: Sprouse?

20 JUROR: Sprowl. S-p-r-o-w-l.

21 CLERK: 153.

22 JUROR: I had a very close friend that was killed from a
23 DUI, a car accident in 2013.

24 THE COURT: Would that prevent you from being fair and
25 impartial to both sides?

1 JUROR: I feel like it would make me biased.

2 THE COURT: We will excuse you from the trial of this
3 case, but stay with us.

4 JUROR: I'm Daryl Seymore, number 142. I'm related with
5 Adam's family.

6 THE COURT: You're related by different relationships,
7 but what's the closest one?

8 JUROR: Jerry is his granddaddy. Adam's granddaddy.
9 And that's my first cousin.

10 THE COURT: That's your first cousin? Okay. It's going
11 to be hard for you to be fair and impartial, isn't it? Or
12 is it?

13 JUROR: Well, being -- now that I know both families and
14 everything I feel like it might be a conflict or something.

15 THE COURT: You're going to have some difficulties? If
16 so, that's fine.

17 JUROR: Probably so.

18 THE COURT: I will excuse you from the trial of this
19 case, but just stay with us. Yes, sir? Your name and
20 number.

21 JUROR: Daniel Brock, 13. Yeah, my girlfriend, one of
22 her cousins, her daddy had a DUI and hit a dude and killed
23 him. He just got prison for it.

24 THE COURT: All right. Your girlfriend's cousin's
25 daddy?

1 JUROR: Yeah.

2 THE COURT: Has just been convicted?

3 JUROR: Yeah. Been convicted of DUI, he killed a guy.
4 Then her other cousin, her sister's old man he just hit a
5 guy and killed him.

6 THE COURT: So your girlfriend has got some family
7 members that have been charged.

8 JUROR: Yeah, they're close to me too.

9 THE COURT: They're close to you? Would that prevent
10 you from being fair and impartial to both sides?

11 JUROR: It would put a little stress on me, 'cause it's
12 one of them things where it --

13 THE COURT: I'm going to excuse you from the trial of
14 this case, but you stay with us, okay? Yes, ma'am? Your
15 name, again?

16 JUROR: Michelle Stevenson. I do believe your first
17 question was related to family members who have been
18 convicted for alcohol or drugs?

19 THE COURT: I'm going to have to look again, but tell me
20 what you were --

21 JUROR: My cousin went to jail for methamphetamines.

22 THE COURT: Okay. Your cousin went to jail for
23 methamphetamine charge. Can you still be fair and impartial
24 to both sides?

25 JUROR: Yes, sir.

1 THE COURT: Thank you. Stay with us. Yes, ma'am. Your
2 name and number.

3 JUROR: Cassandra Barr, number 9. I read the articles
4 both in the Index and Greenwood Today, and I can be fair.

5 THE COURT: You can be fair and impartial?

6 JUROR: Uh-huh.

7 THE COURT: Did you read -- if there were any articles
8 about this case -- and I don't know, because I'm not from
9 Greenwood. But, if there were, did you read any of those
10 articles?

11 JUROR: I can't say. I mean, I read them.

12 THE COURT: But you can't remember if you did?

13 JUROR: Huh-uh.

14 THE COURT: But you can be fair and impartial?

15 JUROR: Yes, sir.

16 THE COURT: Okay. Stay with us. Yes, ma'am? Your name
17 and number?

18 JUROR: Misty Butler, 21. I know Cody Bishop, Derrick
19 Rash, and I go to church with Wanda Perry.

20 THE COURT: Are these witnesses or family members?

21 JUROR: Wanda Perry was a family member, and then Cody
22 Bishop and Derrick Rash are law enforcement. I am morally
23 and religiously against the consumption of alcohol.

24 THE COURT: I'm going to excuse you from the trial of
25 this case, but stay with us. Yes, ma'am? Your name and

1 number?

2 JUROR: Sally Sturgis-Brian, 156.

3 THE COURT: Yes, ma'am.

4 JUROR: About 24 years ago I had a sister who pled
5 guilty to forging prescriptions.

6 THE COURT: Can you still be fair and impartial?

7 JUROR: Yes.

8 THE COURT: Thank you, ma'am.

9 (Whereupon, there was sidebar discussion.)

10 THE COURT: Can I get Misty Butler back up here, please?
11 You're not in any trouble, okay?

12 (Whereupon, jury panel member comes forward.)

13 THE COURT: When you stated that you were morally and
14 religiously opposed to the consumption of alcohol, would
15 that prevent you from being fair and impartial to both
16 sides?

17 JUROR: I don't think so.

18 THE COURT: I need for you to be certain. Be honest
19 with me.

20 JUROR: I mean, I'm against it. Just religiously.

21 THE COURT: I'm going to ask you again, do you believe
22 that you can be fair and impartial to both sides even
23 though, which you have every right to be, you are
24 religiously opposed to the consumption of alcohol? Can you
25 still be fair and impartial?

1 JUROR: I think it would be hard for me to.

2 THE COURT: You're still excused, okay? Thank you.

3 Your name and number?

4 JUROR: Angela McCall, 106.

5 THE COURT: Yes, ma'am.

6 JUROR: I don't know if this applies or not, but your
7 first question was about convictions or something. I have a
8 father-in-law who was convicted of a white-collar crime.

9 THE COURT: The fact that you have a father-in-law who
10 was convicted of a white-collar crime, can you still be fair
11 and impartial to both sides?

12 JUROR: Yes, sir.

13 THE COURT: Thank you. Have a seat. Give me your name
14 and number for the record.

15 JUROR: Barbara Cooley, number 31.

16 THE COURT: Yes, ma'am, Mrs. Cooley.

17 JUROR: I would not have a problem serving; okay? But
18 my son-in-law is a corporal with the highway patrol. I do
19 know Botts. Some of the people that stood up, I do know
20 them. I don't know their names. But I would be fair and
21 impartial.

22 THE COURT: You could still be fair and impartial to
23 both sides in this case?

24 JUROR: Right, but just wanted you to know that. My
25 husband is retired Highway Patrol. I didn't want that to

1 come in and kick something out.

2 THE COURT: But you can still be fair and impartial?

3 JUROR: Yes, sir.

4 THE COURT: Thank you. Stay with us.

5 (Whereupon, the juror returned to her seat.)

6 MR. GARRETT: Did she mention that her son-in-law is a
7 witness in this case?

8 MR. HENDERSON: No.

9 MR. GARRETT: Her son-in-law, Cody Bishop, is a witness
10 in this case.

11 THE COURT: Oh, really? Ms. Cooley, I need you back up
12 here. You've got a son-in-law who is a witness in this
13 case?

14 JUROR: Yes, sir.

15 THE COURT: Cody Bishop?

16 JUROR: Yes, sir.

17 THE COURT: I'm going to excuse you from the trial of
18 this case.

19 JUROR: Thank you, sir.

20 THE COURT: Stay with us though. Don't go yet. Yes,
21 sir? Your name and number?

22 JUROR: Allen Brown, number 15. I had a CDV.

23 THE COURT: First offense?

24 JUROR: Uh-huh.

25 THE COURT: You're good. Stay with us. Your name?

1 JUROR: John Bautista. I've had a couple of family
2 members and friends that have died from that.

3 THE COURT: Okay, from?

4 JUROR: From being hit by drunk drivers.

5 THE COURT: You have had some family members --

6 JUROR: Uh-huh.

7 THE COURT: -- who have died as a result of an
8 automobile accident?

9 JUROR: Somebody else -- yes, sir.

10 THE COURT: And alcohol was involved?

11 JUROR: Yes, sir.

12 THE COURT: Do you believe you could still be fair and
13 impartial to both sides?

14 JUROR: I don't know if I could or not.

15 THE COURT: I'm going to excuse you from the trial of
16 this case. Stay with us, okay? Yes, ma'am? Your name and
17 number.

18 JUROR: 100. I have a niece that was convicted of two
19 DUIs and went to jail for some months.

20 THE COURT: Can you still be fair and impartial?

21 JUROR: I can. Very good. Stay with us.

22 THE COURT: Yes, ma'am? Your name and number.

23 JUROR: Laurie Vaughns, number 8.

24 THE COURT: Yes, ma'am, Mrs. Vaughns.

25 JUROR: The first question was about anybody I know has

1 criminal charges.. My husband has some charges.

2 THE COURT: Pending charges?

3 JUROR: No, not pending.

4 THE COURT: He was convicted?

5 JUROR: Uh-huh.

6 THE COURT: How long ago was that?

7 JUROR: Ten years.

8 THE COURT: What were the charges? Do you remember?

9 JUROR: I know that two years ago was a CDV, and he's
10 had a shoplifting.

11 THE COURT: So the fact that your husband does have some
12 criminal record, can you still be fair and impartial to both
13 sides?

14 JUROR: Oh, yeah. Also, my aunt was killed in a car
15 wreck and the guy was charged with DUI.

16 THE COURT: Can you still be fair and impartial because
17 of that?

18 JUROR: Yes.

19 THE COURT: Thank you. Stay with us. Yes, ma'am. Your
20 name and number.

21 JUROR: Henry, 77. My father was an alcoholic.

22 THE COURT: Your father was an alcoholic?

23 JUROR: Uh-huh. And also he killed a man with his car.

24 THE COURT: While he was under the influence?

25 JUROR: Uh-huh.

1 THE COURT: How long ago was that?

2 JUROR: We're talking about 40 years. Also, my son is a
3 repeat offender driver. Lost his license. He just got it
4 back this year.

5 THE COURT: Because of alcohol related offenses?

6 JUROR: Uh-huh.

7 THE COURT: The situation involving your father and the
8 situation involving your son, can you still be fair and
9 impartial to both sides in this case?

10 JUROR: No, and I'm a CDL driver. They're very strict
11 about alcohol and tests.

12 THE COURT: So you don't think you can be fair and
13 impartial?

14 JUROR: Huh-uh.

15 THE COURT: Okay. You will be excused from the trial of
16 this case, but just stay with us. Yes, ma'am? Your name
17 and number.

18 JUROR: 51. I'm not sure what the question is, but
19 there's something about the sworn testimony of a police
20 officer compared to the sworn testimony -- that question.

21 THE COURT: The question is, would you automatically
22 believe the sworn testimony of a law enforcement officer
23 over the non-law enforcement witness, just because that
24 person is a law enforcement officer?

25 JUROR: I think I would. I'm sorry to say.

1 THE COURT: You think you would believe a law
2 enforcement over --

3 JUROR: I think I would. I'm sorry.

4 THE COURT: That's okay. I'm going to excuse you from
5 the trial of this case. Stay with us though. Yes, ma'am.
6 Your name and number.

7 JUROR: Pamela Brown, 17. I have a nephew who presently
8 has two charges for DUI. One is in Laurens County and
9 another in a county outside of Atlanta. Mr. Garrett
10 represented my son on a DUI charge a number of years ago.

11 THE COURT: The fact that your son has pending DUI
12 charges --

13 JUROR: My nephew.

14 THE COURT: Nephew. I'm sorry. Your nephew has two
15 pending DUI charges and Mr. Garrett represented your son on
16 a DUI case some time back, can you still be fair and
17 impartial to both sides?

18 JUROR: I think so.

19 THE COURT: Thank you, ma'am.

20 MR. BLACK: Judge, didn't you ask that question earlier
21 if any of the attorneys had represented anyone in the jury
22 panel?

23 THE COURT: I did.

24 MR. BLACK: Or family members. Didn't you ask that
25 question?

1 MR. HENDERSON: I don't think you did actually. I think
2 you just asked did we know --

3 THE COURT: No, I asked if anybody was represented, but
4 I didn't ask family members.

5 MR. BLACK: You asked that too. Can you ask that too?
6 If any immediate family members have been represented by any
7 of the attorneys.

8 THE COURT: Just remind me when I finish this then I'll
9 ask that. Yes, ma'am?

10 JUROR: I want to speak to you about the first question.

11 THE COURT: Give me your name and number.

12 JUROR: 127, Linda Pate. Okay, like, if you knew
13 someone that had similar charges or if a family member had
14 similar charges.

15 THE COURT: Okay, well, tell me what you've got.

16 JUROR: I do have a family member that has had similar
17 charges.

18 THE COURT: A family member. What family member was
19 that?

20 JUROR: A daughter.

21 THE COURT: Your daughter? She was charged with what?

22 JUROR: Felony DUI.

23 THE COURT: Was she convicted?

24 JUROR: Yes.

25 THE COURT: Okay. How long ago was that?

1 JUROR: 2001.

2 THE COURT: The fact that your daughter was convicted of
3 felony DUI, can you still be fair and impartial to both
4 sides?

5 JUROR: Absolutely. Absolutely.

6 THE COURT: Thank you, ma'am. Stay with us. Yes,
7 ma'am. Your name and number.

8 JUROR: 152, sprowl. My step-son who is a juror has
9 also been arrested for a misdemeanor marijuana related.

10 THE COURT: Okay, you've got a step-son --

11 JUROR: He's here too. He's a juror also.

12 THE COURT: Oh, your step-son is?

13 JUROR: He's a juror.

14 THE COURT: He's not been convicted, but has been
15 charged?

16 JUROR: I forgot what happened with that. It was five
17 years ago.

18 THE COURT: Oh, he was convicted?

19 JUROR: He went to jail. He might have done -- I
20 forgot.

21 THE COURT: The fact that your step-son has some charge
22 five years ago, can you still be fair and impartial?

23 JUROR: Yes, sir.

24 THE COURT: Stay with us. Thank you. Your name and
25 number?

1 JUROR: Jeff Phillips, 131. I've worked with Adam and
2 -- for 25 years.

3 THE COURT: Right. Okay. I'm going to excuse you.

4 MR. HENDERSON: 131. He's Adam's boss.

5 THE COURT: Yes, sir. Your name and number?

6 JUROR: Ron Gadagno, number 57. My son has a conviction
7 for felony possession with intent.

8 THE COURT: How long ago?

9 JUROR: About three years.

10 THE COURT: The fact that your son has a conviction for
11 felony DUI and another offense, can you still be fair and
12 impartial to both sides?

13 JUROR: Yes, sir.

14 THE COURT: Thank you, sir.

15 MR. HENDERSON: I think it was a drug charge of some
16 type. That's what I was assuming. I don't --

17 THE COURT: If he didn't say DUI I'm going to get him
18 back up here, because I want the record to be clear. Come
19 back up here.

20 (Whereupon, the juror returned to the sidebar.)

21 THE COURT: Tell me again, your son three years ago had
22 a conviction for?

23 JUROR: Possession with intent. He's had a DUI, but he
24 was not charged -- he wasn't convicted of that.

25 THE COURT: About three years ago, possession with

1 intent to distribute some drugs?

2 JUROR: Yes, sir. It was a felony.

3 THE COURT: Oh, it was a felony. I heard the word
4 "felony" and automatically assumed -- but it was not a
5 felony DUI. The fact that -- could you still be fair and
6 impartial?

7 JUROR: Yes, sir.

8 THE COURT: Thank you, sir. Yes, sir. Your name and
9 number?

10 JUROR: Walter Hicks, number 79. Question one was if
11 your family member or someone you know was convicted of a
12 crime. My father was convicted of DUI.

13 THE COURT: Your father was convicted of DUI how long
14 ago, roughly?

15 JUROR: I don't know, maybe two or three years, maybe.

16 THE COURT: The fact that your father was convicted of
17 DUI, can you still be fair and impartial to both sides?

18 JUROR: Yes, sir.

19 THE COURT: Thank you. Yes, sir. Name and number?

20 JUROR: Chris Sample, 136. I don't know if this is --
21 I've never done this before.

22 THE COURT: That's all right.

23 JUROR: Mr. Garrett and his team got a DUI charge
24 dropped on my girlfriend receiving tons and tons of money
25 and I am forever and a day in his debt, you know what I'm

1 saying.

2 THE COURT: So you feel like you maybe can't be fair and
3 impartial?

4 JUROR: He's

5 THE COURT: Well, good for him.

6 JUROR: I'm just being honest.

7 THE COURT: Well, I want you to. I'm going to excuse
8 you for the trial of this case, but stay with us.

9 JUROR: Juror number 64, Tony Graham. You were asking
10 about the potential witness list and I told you that my
11 next-door-neighbor was Crystal Still. I think there was
12 another one in there, Wanda Perry. She and I worked
13 together for years.

14 THE COURT: Can you still be fair and impartial to both
15 sides?

16 JUROR: Yes, sir.

17 THE COURT: Thank you. My name is Marlene Giles. My
18 number is 59. My family is -- Kelly Anderson is a family
19 friend.

20 THE COURT: Ken Anderson?

21 JUROR: No, Kelly Anderson. She's one of the witnesses.

22 THE COURT: She's one of the potential witnesses. Okay.

23 JUROR: And then I work at Self Regional Healthcare, so
24 I see Wanda -- I don't know her personally, but I see her
25 because she works for transport.

1 THE COURT: Okay. The victim's mom? Okay.

2 JUROR: I don't even know her last name.

3 THE COURT: You don't really know her? Okay. You know
4 of her.

5 JUROR: I see her.

6 THE COURT: Those two things, can you still be fair and
7 impartial to both sides?

8 JUROR: Yes, sir.

9 THE COURT: Okay. Thank you, ma'am. Yes, sir.

10 JUROR: Number 38, Alan Darling. I read the comment
11 sections all the time. The local news and the national
12 news, that sort of thing.

13 THE COURT: I don't know if anything has been posted or
14 printed about this case, but do you recall ever reading
15 anything about this case?

16 JUROR: No, not at all.

17 THE COURT: Thank you very much.

18 (Whereupon, there was an off the record conference.)

19 THE COURT: Ladies and gentlemen, I've got two other
20 questions. Let me just first say that I appreciate
21 everyone's honesty. Several of you have come up and given
22 us information that wasn't that important, but you felt like
23 it was important and you wanted us to know that, and I
24 appreciate your honesty and your candor very much. What
25 happens sometimes is that jurors are not honest and have

1 really a real issue about serving on a jury, and we don't
2 find out about it until after the fact. That creates
3 problems, so let me thank you panel as a whole for your
4 honesty and your candor and your desire to do the right
5 thing. I appreciate that.

6 I've got two other questions that I need to ask you.
7 If you remember, I asked if any member of the jury panel had
8 ever been represented by any of the lawyers involved in this
9 case on either side. I needed to go one step further and
10 ask, other than one member of the panel who this applied to
11 and I've already given -- so you don't have to stand up.
12 Any member of the jury panel have an immediate family member
13 that's ever been represented by any of the lawyers involved
14 in this case?

15 (Whereupon, several members of the jury panel stood.)

16 THE COURT: You don't need to speak with me privately.
17 Give me your name, ma'am.

18 JUROR: Barbara Cooley, number 31. Mr. Henderson has
19 represented my daughter before in the past.

20 THE COURT: Okay. Very good.

21 JUROR: Ron Gadagno, 57. Mr. Garrett represented my
22 son.

23 THE COURT: Thank you very much.

24 JUROR: Pamela Brown, 17. Mr. Garrett represented a
25 family member.

1 THE COURT: Thank you. Sir?

2 JUROR: Walter Hicks, 79. Mr. Henderson represented my
3 father.

4 THE COURT: Okay. Thank you very much. We've got one
5 more. Yes, sir. Your name and number.

6 JUROR: Allen Brown. I was represented by --

7 THE COURT: Mr. Henderson?

8 JUROR: Yes.

9 THE COURT: Thank you. My last question -- I've asked
10 this a lot to the panel or when you spoke with me privately,
11 but the key to being an effective juror is being fair and
12 impartial to both sides. So, I'm going to ask this one last
13 question. Does any member of the jury panel know of any
14 reason whatsoever that causes you to believe that you cannot
15 be fair and impartial to both the State of South Carolina
16 and Mr. Rowell, the Defendant in this case? Do you know of
17 any reason that you believe prevents you from being fair and
18 impartial, please stand.

19 (Whereupon, a member of the jury panel stood.)

20 THE COURT: All right. If you'll come up front, please.
21 Now, if you have been excused you don't need to come up.
22 You don't need to tell me. Let me ask the State are there
23 any exceptions or objections to the Court's voir dire?

24 MR. BLACK: No, sir, Your Honor.

25 THE COURT: Other than what's been noted, any exceptions

1 or objections to the voir dire by the Court from the
2 Defense?

3 MR. GARRETT: None, Your Honor.

4 THE COURT: Ladies and gentlemen, it's going to take a
5 few minutes, but what will happen is there will be a list
6 comprised of some of your names, not all of your names, but
7 some. If your name is called out you will come down and you
8 will stand facing the back doors, facing the counsel tables.
9 Attorneys will -- you may hear the attorneys use the words
10 "swear the juror" or "seat the juror" or "excuse the juror
11 from the trial of this case". Words of that nature. If you
12 are selected, then you will be directed to have a seat over
13 in the jury box. If you are not selected, then you will go
14 back to your seat. Do not take it personally if you are not
15 selected, okay? Don't take personal offense to it, because
16 it's not personal. The lawyers have certain reasons, basis,
17 for wanting people to be on a jury that they are involved in
18 and not wanting others to be on a jury that they are
19 involved in, so it's not personal and please don't take it
20 as such. It's going to be a few minutes. I know it's past
21 5:00. Hopefully, we can get the jury picked soon and I can
22 dismiss the remainder of you, so just bear with us and we
23 will proceed shortly.

24 (Whereupon, there was a short pause in the
25 proceedings.)

1 THE COURT: Three alternates. Five and five. You may
2 proceed, Madam Clerk.

3 CLERK: When I call your name, come up and bring your
4 belongings and stand in front of me, please. Number 4,
5 Shunessa Anty. What says the State?

6 MR. BLACK: Please present Ms. Anty.

7 CLERK: What says the Defense?

8 MR. GARRETT: Please swear Ms. Anty.

9 (Whereupon, the juror took a seat in the jury box.)

10 CLERK: 22, Timothy Cadden. What says the State?

11 MR. BLACK: Please present Mr. Cadden.

12 CLERK: What says the Defense?

13 MR. GARRETT: Swear him.

14 (Whereupon, the juror took a seat in the jury box.)

15 CLERK: 133, Robert Ridge. What says the State?

16 MR. BLACK: Please present Mr. Ridge.

17 CLERK: What says the Defense?

18 MR. GARRETT: Please swear him.

19 (Whereupon, the juror took a seat in the jury box.)

20 CLERK: 20, Alessandro Butler. What says the State?

21 MR. BLACK: Please present Mr. Butler.

22 CLERK: What says the Defense?

23 MR. GARRETT: Beg the Court's indulgence. Swear Mr.
24 Butler.

25 (Whereupon, the juror took a seat in the jury box.)

1 CLERK: 126, Melanie Parks. What says the State?

2 MR. BLACK: Please present Ms. Parks.

3 MR. GARRETT: Please excuse Ms. Parks from the trial of
4 this case.

5 (Whereupon, the jury panel member returns to seat.)

6 CLERK: 62, Charles E. Gordon. What says the State?

7 MR. BLACK: Please present Mr. Gordon.

8 MR. GARRETT: Swear Mr. Gordon.

9 (Whereupon, the juror took a seat in the jury box.)

10 CLERK: 79, Walter J. Hix. What says the State?

11 MR. BLACK: Please excuse Mr. Hix.

12 (Whereupon, the jury panel member returns to seat.)

13 CLERK: I'm sorry. 58, Jennie Gambrell. What says the
14 State?

15 MR. BLACK: Please present Ms. Gambrell.

16 CLERK: What says the Defense?

17 MR. GARRETT: Swear Ms. Gambrell.

18 (Whereupon, the juror took a seat in the jury box.)

19 CLERK: 173, George M. Williams. What says the State?

20 MR. BLACK: Please present Mr. Williams.

21 CLERK: What says the Defense?

22 MR. GARRETT: Swear him.

23 (Whereupon, the juror took a seat in the jury box.)

24 CLERK: 106, Angela D. McCall. What says the State?

25 MR. BLACK: Please present Ms. McCall.

1 CLERK: What says the Defense?

2 MR. GARRETT: Please excuse Ms. McCall from the trial of
3 this case.

4 (Whereupon, the jury panel member returns to seat.)

5 CLERK: 42, Jason Dodson. What says the State?

6 MR. BLACK: Please present Mr. Dodson.

7 CLERK: What says the Defense?

8 MR. GARRETT: Jason Dodson, swear him.

9 (Whereupon, the juror took a seat in the jury box.)

10 CLERK: 127, Linda C. Pate. What says the State?

11 MR. BLACK: Please excuse Ms. Pate.

12 (Whereupon, the jury panel member returns to seat.)

13 CLERK: 164, Anxaviar Waldrup. What says the State?

14 MR. BLACK: Please present the juror.

15 CLERK: What says the Defense?

16 MR. GARRETT: Swear Mr. Waldrup.

17 (Whereupon, the juror took a seat in the jury box.)

18 CLERK: 156, Sally Sturgis-Bryan. What says the State?

19 MR. BLACK: Please present Ms. Sturgis-Bryan.

20 CLERK: What says the Defense?

21 MR. GARRETT: Please excuse Ms. Sturgis-Bryan.

22 (Whereupon, the jury panel member returns to seat.)

23 CLERK: Number 8, Laurie Barnes. What says the State?

24 MR. BLACK: Please present Ms. Barnes.

25 CLERK: What says the Defense?

1 MR. GARRETT: Please excuse Ms. Barnes from the trial of
2 this case.

3 (Whereupon, the jury panel member returns to seat.)

4 CLERK: 108, Lawrence R. McGee. What says the State?

5 MR. BLACK: Please present Mr. McGee.

6 CLERK: What says the Defense?

7 MR. GARRETT: Please swear him.

8 (Whereupon, the juror took a seat in the jury box.)

9 CLERK: 68, Marquivis Hackett. What says the State?

10 MR. BLACK: Please excuse Mr. Hackett.

11 (Whereupon, the jury panel member returns to seat.)

12 CLERK: 155, Michelle Stevenson. What says the State?

13 MR. BLACK: Please present Ms. Stevenson.

14 CLERK: What says the Defense?

15 MR. GARRETT: Please swear the juror.

16 (Whereupon, the juror took a seat in the jury box.)

17 CLERK: 9, Cassandra D. Barr. What says the State?

18 MR. BLACK: Please present Ms. Barr.

19 CLERK: What says the Defense?

20 MR. GARRETT: Please swear Ms. Barr.

21 THE COURT: Okay, that gives us 12. We need three
22 alternates. Two and one strikes.

23 CLERK: Suzanna Edwards, number 47. What says the
24 State?

25 MR. BLACK: Please present Ms. Edwards.

1 CLERK: What says the Defense?

2 MR. GARRETT: Please excuse Ms. Edwards from the trial
3 of this case.

4 (Whereupon, the jury panel member returns to seat.)

5 CLERK: 144, Joshua J. Shaw. What says the State?

6 MR. BLACK: Please present Mr. Shaw.

7 MR. GARRETT: Swear Mr. Shaw.

8 (Whereupon, the juror took a seat in the jury box.)

9 CLERK: 116, Torritta M. Moss. What says the State?

10 MR. BLACK: Please present Ms. Moss.

11 CLERK: What says the Defense?

12 MR. GARRETT: Swear Ms. Moss.

13 (Whereupon, the juror took a seat in the jury box.)

14 CLERK: 57, Ronald J. Gadagno. What says the State?

15 MR. BLACK: Please excuse this juror.

16 (Whereupon, the jury panel member returns to seat.)

17 CLERK: 135, Kandace D. Ryans. What says the State?

18 MR. BLACK: Please present Ms. Ryans.

19 CLERK: What says the Defense?

20 MR. GARRETT: Excuse her from the trial of this case.

21 (Whereupon, the jury panel member returns to seat.)

22 CLERK: 75, Justin D. Hedrick. What says the State?

23 MR. BLACK: Please present Mr. Hedrick.

24 CLERK: What says the Defense?

25 MR. GARRETT: Excuse him from the trial of this case.

1 MR. BLACK: Your Honor, may we approach?

2 (Whereupon, a sidebar was held.)

3 CLERK: 59, Marlene O. Giles. Any excuse for cause from
4 the State?

5 MR. BLACK: None from the State.

6 CLERK: What says the Defense?

7 MR. GARRETT: Please swear him.

8 (Whereupon, the juror took a seat in the jury box.)

9 THE COURT: Okay, ladies and gentlemen. You are the
10 trial jury selected in this case. What I'm going to need
11 you to do is go back into the jury room for just a minute.
12 It will give you a chance to introduce yourselves. You
13 probably won't be back there for long. Then I will bring
14 you back out and we will recess for the day. I'm going to
15 tell you something you're going to hear me say over and over
16 and over again. You cannot start any discussion among
17 yourselves about anything related to this case. You know
18 very little. I realize that. Anything you've seen,
19 anything you've heard, no discussion whatsoever among the 15
20 of you. That discussion cannot start until I tell you to
21 begin your deliberations, which can only take place at the
22 end of the case. You're going to hear me repeat that
23 numerous times, but it's just absolutely necessary. Go back
24 to the jury room. I have provided some candy back there.
25 It's all sugar free, so if you are watching your calories or

1 need to eat sugar free, it's back there for your taking. I
2 will try to keep that little dish filled up for you through
3 the week. Go back to the jury room, please.

4 (Whereupon, the selected jury exited the courtroom at
5 5:37 p.m.)

6 THE COURT: Does the State have any exceptions or
7 objections to jury selection?

8 MR. BLACK: None from the State, Your Honor.

9 THE COURT: Defense?

10 MR. GARRETT: None from the Defense.

11 THE COURT: Thank you very much. All right ladies and
12 gentlemen in the remaining jury panel. I'm going to send
13 you on. What you will need to do is -- you've been provided
14 a call in number. I'm not going to ask that you call it in
15 tonight, but tomorrow night after 6:00 call it in and it
16 will give you your instruction for the following day.
17 Chances are it's going to say one of two things. Either
18 one, call back in Wednesday night after 6, or possibly it
19 may say that you are excused for the remainder of the week,
20 even though we anticipate this trial taking all week. You
21 just never know. Sometimes things happen, so I don't want
22 to excuse you yet. Again, you don't have to call that
23 tonight, but tomorrow night after 6 call in and you'll get
24 your instructions. If we don't get you back, I hope that
25 you'll have an opportunity to sit on a jury sometime in the

1 future, either a civil case or a criminal case. As I said,
2 I think, earlier in the day serving on a jury can be a
3 valuable experience. A lot of people I talk to who have
4 served on juries over the years have found it to be a good
5 experience for them. A tough one, a hard one, but a good
6 experience and an educational one. Hopefully sometime down
7 the road you will have that experience to do that. So if I
8 don't get to see you again, I wish you the very best. Have
9 a good evening. You are excused.

10 (Whereupon, the remaining jury pool exited the
11 courtroom at 5:40 P.M.)

12 (Whereupon, the jury panel entered the courtroom at
13 5:41 P.M.)

14 THE COURT: Let the record reflect that the jury is back
15 in. Ladies and gentlemen, we're going to go ahead and
16 recess for the evening. We're going to start back at 9:30
17 in the morning. Be prompt. Allow yourself enough time to
18 get here to take care of anything unexpected that may come
19 your way. We'll start at 9:30. My instruction to you about
20 no discussion about the case among yourselves also applies
21 to anybody that you come into contact with this afternoon or
22 this evening. Family members, friends, co-workers. If they
23 want to question you about it you can say I've been selected
24 on a jury, and leave it at that. You can just put the blame
25 on the judge. Also, it may be tempting for some of you to

1 go on the internet, social media, and try to do some
2 research about a felony DUI case or do some research about
3 this case. Do not do it. I'm going to go into more detail
4 about why I'm instructing you not to do that, as tempting as
5 it might be. You may have access to a wealth of
6 information, but just don't do that. I'll explain more
7 about that tomorrow to you, okay. Get you some good rest
8 tonight, and I'll see you here at 9:30 in the morning.

9 (Whereupon, the jury exited the courtroom at 5:47 P.M.)

10 THE COURT: One last thing on the record concerning the
11 request by the Defense to have their expert not be
12 sequestered. I am granting that request. I think under
13 Rule 615 coupled with 703, but primarily 615, I'm going to
14 allow experts on both sides to not be subject to a
15 sequestration order. Anything else before we adjourn for
16 the evening?

17 MR. HENDERSON: We assume that Mr. Rowell can stay out
18 on bond?

19 THE COURT: Does the State have any objections?

20 MR. BLACK: No.

21 THE COURT: I'm not aware of any sort of bond
22 violations. At least the State has not presented me with
23 any, so Mr. Rowell, you are free to remain out on bond and I
24 trust that whatever your attorneys instruct you to do as far
25 as being here and time and that sort of thing that you will

1 continue to do that.

2 DEFENDANT: Yes, sir.

3 THE COURT: Everybody have a good evening. We will see
4 you in the morning.

5 (Whereupon, there was a recess in the proceeding.)

6 DAY 2-02/14/17

7 (Whereupon, the trial record resumed at 9:39 a.m.)

8 THE COURT: I was -- I was informed that we've already
9 lost one juror. One of the alternates called in sick. You
10 know, it kind of puts me in a difficult situation. And so,
11 I went ahead and excused him. So we've already -- already
12 lost one. Let's keep our fingers crossed that we won't have
13 any other issues.

14 MR. GARRETT: Which one was it, Your Honor?

15 THE BAILIFF: Number 144, Joshua Shaw.

16 THE COURT: I think it was the younger fellow. Are we
17 ready to get started?

18 MR. GARRETT: We got one quick thing, Your Honor.

19 THE COURT: If we could get this marked as a Court's
20 Exhibit.

21 (Whereupon, Court's Exhibit No. 5 was marked for
22 identification.)

23 MR. GARRETT: Your Honor, I wanted to --

24 THE COURT: Wait one sec.

25 MR. GARRETT: Your Honor, yesterday during our open

1 container motion I provided the Court with a copy of a
2 transcribed interview that Trooper Anderson took with
3 Trooper Smith during the MAIT investigation --

4 THE COURT: Okay.

5 MR. GARRETT: -- and I'm going to call reference to
6 page six of that transcript, line number 12, where Trooper
7 Smith is telling Trooper Anderson, "Yes, I did locate a
8 witness that was behind the -- the black Chevrolet before
9 the incident and said that he was swerving all over the
10 roadway." In this document I just handed up, Your Honor,
11 that's going to be a Court's exhibit -- I'm not sure what
12 number. Number 5, about halfway down where Kelly Anderson
13 -- Trooper Anderson is writing down what Trooper Smith said,
14 "Witness behind black Chevrolet said he was swerving." Your
15 Honor, no name of any witness has ever been provided to us.
16 No other information other than what Trooper Smith has just
17 said. And then obviously it's classic hearsay. So we'd
18 just ask that the State be instructed not to go into that,
19 because obviously we can't confront that.

20 THE COURT: Right.

21 MR. GARRETT: We've never been given the name of
22 anybody. There's not a name of any witness.

23 THE COURT: Solicitor, I --

24 MR. BLACK: We weren't -- we weren't planning on going
25 there, Judge.

1 THE COURT: All right. The Solicitor indicates that
2 whenever they have this trooper on the stand, assuming he
3 will testify, that they will not ask him about some -- some
4 witness making whatever statements.

5 MR. GARRETT: Thank you, Your Honor.

6 THE COURT: All right. Very good. Let's bring the --
7 bring the jury out.

8 (Whereupon, the jury entered the courtroom at 9:41
9 a.m.)

10 THE COURT: Let the record reflect the jury's back in.
11 Good morning, ladies and gentlemen. As you can probably
12 tell we've already had one casualty. We've lost one of the
13 -- one of the alternates. He called in -- as I understand
14 it, called in this morning and said he was sick. Had not
15 felt well yesterday when he was here. So I went ahead and
16 excused him. So even though we still have a two alternate
17 cushion. Don't get sick on me. Okay?

18 We have two housekeeping matters that we need to take
19 care of before we start the actual trial of this case. One,
20 you need to be sworn in as the trial jury. So, Madam Clerk,
21 are you ready?

22 MADAM CLERK: Yes.

23 (Whereupon, the jury was sworn in at 9:41 a.m.)

24 THE COURT: Now, the second housekeeping matter that I
25 need to take care of, I need to appoint a foreperson of the

1 jury. Now, if it is a man, it's a foreman. If it is a
2 female, it is a forelady. And let me tell you what the
3 duties and responsibilities of a foreperson of the jury.

4 First of all, the vote of a foreperson carries no
5 greater weight than the vote of the other 11. When I say
6 vote, that's when -- when you begin your deliberations in
7 order to reach a verdict in this case. The vote carries no
8 greater weight. It's equal with the other 11. But I need
9 someone to wear several hats. One, I need to have someone
10 serve as spokesperson.

11 You can hand it to me, Jimmy. Thank you.

12 THE BAILIFF: Yes, sir.

13 THE COURT: I need someone to serve as the spokesperson
14 for the jury. In other words, have a line of communication
15 between the jury and the court. So as we go through this
16 trial, if there's any concern, any issue, anything that
17 needs to be brought to my attention, then I need someone to
18 serve in that capacity.

19 Secondly, I need someone to make sure that all of my
20 instructions are being followed, even though that's really
21 the responsibility of all of you. But like my instruction
22 don't begin any discussion among yourselves about this case.
23 So I need someone to make sure that all of my instructions
24 are followed.

25 And thirdly, when I do give you the case to begin your

1 deliberations, in order to reach a unanimous verdict I need
2 someone to start those deliberations, organize those
3 deliberations and oversee those deliberations.

4 Now, I am confident that all 14 of you would make
5 excellent forepersons of this jury. However, I can only
6 have just one. So, Mr. Gordon, on the end, you will be the
7 foreman of this jury. Now, when you come back out after our
8 next break you will always maintain this front seat here.
9 Okay? Let me -- the two alternates, would you raise your
10 hands?

11 (Whereupon, the alternate jurors raised their hands.)

12 THE COURT: You will always maintain those two seats
13 there. Everybody else you can sit where you like. Now, I
14 tell juries this and it's true, because it's been my
15 experience that more times than not jurors like to sit in
16 the same seat. You can do that if you like, but you don't
17 have to. That's totally up to you. It's kind of like at
18 church, you have your own pew, your own seat and that's
19 where you sit. But I'm going to leave that up to you. But
20 foreman, my two alternates, you have your designated seats.

21 Now, let me -- before the lawyer make their opening
22 arguments to you I want to explain just several things to
23 you for you to keep in mind as we go through this trial.
24 First of all, it is extremely important that you be very
25 attentive and alert throughout this whole proceeding.

1 That's why it's real important to get some good rest at
2 night. There's nothing worse than a judge looking at the
3 jury and I've got a juror nodding off asleep. I don't like
4 that, and that will not be tolerated. I try to give enough
5 breaks where everybody can remain fresh and alert, but be
6 very attentive. You're not permitted to take notes, so
7 that's why it's extremely important to listen and observe
8 everything that goes on during this proceeding. It's going
9 to be a lengthy trial. I've already explained that to you.
10 So there's going to be a lot of information that's going to
11 be given to you and that you'll need to consider when you do
12 begin your deliberations.

13 Understand that you and I have different roles in this
14 -- in this proceeding. I am the judge of the law and I will
15 instruct you on the law at the conclusion of this case.
16 It's also my role, job to preside over this trial and make
17 legal rulings on evidentiary issues and otherwise. But you,
18 the jury, are the sole judge of the facts in this case. No
19 one else. It's you are the ones to make the determination
20 as to the facts in this case.

21 Now, as I told you yesterday, the fact that Mr. Rowell
22 has been indicted and charged with two counts of felony DUI
23 is not evidence in this case, and the fact that there are
24 allegations being made against him in these indictments are
25 not proof or not evidence of any guilt on his part. Again,

1 as I told you yesterday, he has exercised his constitutional
2 right and has pled not guilty. And consequently that puts
3 the burden on the State and on the State alone to prove the
4 allegations in these two indictments beyond a reasonable
5 doubt. And the reasonable doubt will be explained to you
6 further as we conclude this -- this trial. But Mr. Rowell,
7 the Defendant in this case, is presumed innocent, and that
8 presumption of innocence carries with him throughout. So
9 please understand that it's upon the State and the State
10 alone to prove these charges against him.

11 As I told you before you left yesterday, as tempting --
12 I think I used that word. As tempting as it may be, do not
13 do any independent search about anything related to this
14 case via the Internet, social media and the like. And the
15 primary reason for that is that your decision, the verdict
16 that you reach in this case has to be based 100 percent on
17 what is brought out in this proceeding in this courtroom.
18 So if you're out doing your own independent research, even
19 though some of the information that you receive could very
20 well be wrong or erroneous, it's going to be information
21 that you would have that your verdict could be based on, and
22 we don't want that. We want to base it on what all of you
23 hear, see and observe in this courtroom. So that's why
24 you're prohibited from doing any independent research.

25 Now, there may be times where the -- one of the lawyers

1 may say, Judge, I have an objection, or Judge, I have a
2 matter of law to take up with the Court and we -- we'll try
3 to resolve that without sending you to the jury room and
4 I'll try to discuss it with the lawyers. But sometimes I'll
5 have to send you to the jury room in order to discuss the
6 legal issue on the record, and it may require me to discuss
7 with the lawyer the facts in this case. And, of course, I
8 don't want to engage in that discussion in your presence
9 because, again, you alone are the sole judge of the facts in
10 this case. So we will -- we will send you to your jury room
11 just when absolutely necessary. Okay?

12 Lastly, ladies and gentlemen, it's very, very important
13 for you to keep an open mind. Don't make any conclusions or
14 reach any conclusions in this case until you have had an
15 opportunity to hear all of the evidence in this case and the
16 lawyers have made closing arguments and I have instructed
17 you on the law that's applicable to this case. So keep an
18 open mind.

19 Again, thank you very much for your acceptance of this
20 very important responsibility that you have by sitting on
21 this trial jury in this case.

22 Does the State have any objections to the Court's
23 opening remarks?

24 MR. DOWTIN: No objections, Your Honor.

25 THE COURT: And Defense?

1 MR. GARRETT: None from the Defense, Your Honor.

2 THE COURT: Okay. Thank you very much. Now, ladies
3 and gentlemen, the lawyers will make their opening arguments
4 to you. These arguments are not evidence in this case.
5 It's only going to be their statement as to what they
6 believe this case is about, what they believe the evidence
7 will show, and their respective positions related to this
8 case.

9 So is the State ready?

10 MR. DOWTIN: Ready, Your Honor.

11 THE COURT: You may proceed. Thank you.

12 MR. DOWTIN: Thank you, Your Honor. May it please the
13 Court.

14 OPENING STATEMENT BY MR. DOWTIN

15 MR. DOWTIN: Ladies and gentlemen, on Saturday,
16 November 15th, 2014 the victims in this case, Mr. Jeremy
17 Cockrell was 27, Mr. Matthew Sanders was 19, and they were
18 headed from Abbeville, South Carolina over to Saluda, South
19 Carolina. And they were on -- around 7:30 p.m. they were on
20 a stretch of Highway 225, the piece that connects 221 up by
21 the fairgrounds to Highway 25 southbound by the Hot Spot.
22 And they were in Jeremy's red 1990 Chevrolet truck. Jeremy
23 was driving. Matthew was in the passenger seat with him.
24 Now, about the same time the Defendant in this case, Mr.
25 Adam Rowell, was on 225 as well. He was heading from the

1 Hot Spot. So they were on a path towards each other, and
2 all of a sudden (demonstrating). Defendant, Adam Rowell,
3 crossed the center line and he crashed into the victims'
4 truck while they were traveling in their lane. Left of
5 center. And as a result of that collision Jeremy Cockrell
6 was dead basically instantly. Blunt force trauma. The
7 impact of that crash pushed the steering and the dashboard
8 of that truck into his upper body. The other victim, Mr.
9 Matthew Sanders, the impact of the collision caused him to
10 have a broken left femur. I'm sure a lot of you all know
11 the biggest bone in your body. One of the strongest, if not
12 the strongest.

13 The Defendant himself, Adam Rowell, he almost died as a
14 result of this crash. He had to be placed on a helicopter
15 and be life flighted to Greenville Memorial Hospital, where
16 doctors were fortunately able to save his life.

17 Now, as you've heard, you're here because the
18 Defendant's been charged with felony DUI, driving under the
19 influence, resulting on death for Mr. Cockrell, and felony
20 DUI resulting in great bodily injury to Matthew Sanders.
21 You're here because on November 15th, 2014 the Defendant
22 made a decision. He made a decision to get drunk, to get
23 behind the wheel of his truck and drive down the road. A
24 decision that led to the fractured left leg of Mr. Matthew
25 Sanders, a decision that almost cost the Defendant his life,

1 and a decision that did take the life of Jeremy Cockrell.

2 Now, briefly I just want to talk about everybody's
3 roles in this case -- or role in this case starting with
4 Judge Hocker. As you heard, he makes rulings of the law in
5 this case. He tells you all what law applies in this case.
6 So please listen to him when it comes to the law. It's our
7 job as the State to prove Mr. Rowell's guilt beyond a
8 reasonable doubt. And you'll get to hear a little bit more
9 about beyond a reasonable doubt through this trial. But
10 it's our job through testimony and evidence to prove the
11 Defendant's guilt beyond a reasonable doubt. It's Defense
12 counsel's job to advocate on behalf of their client.

13 Now, let's get to your job as the jury. As you heard
14 Judge Hocker say, you all determine the facts of this case.
15 Ultimately you all determine the facts based on testimony
16 that's taken up here from this stand and based on evidence
17 that is presented to you throughout this trial. You all
18 ultimately determine who to believe, what to believe. You
19 can believe some of what you hear, none of what you hear or
20 all of what you hear. That's ultimately up to you.

21 But let's get back to our burden as the State. We have
22 to prove again beyond a reasonable doubt the Defendant's
23 guilt of these two charges. And beyond a reasonable doubt,
24 what does that mean? It means you're firmly convinced of
25 the Defendant's guilt. It doesn't mean beyond all doubt or

1 beyond any doubt, but you're firmly convinced, because
2 there's few things in life we are 100 percent certain of.
3 So again, it means you're firmly convinced of the
4 Defendant's guilt. Now, what do we have to make you firmly
5 convinced of? What do we have to prove beyond a reasonable
6 doubt? I'm going to read South Carolina 56-5-2945 to you
7 all which is a statute that's here in South Carolina that
8 basically lays out what we have to prove beyond a reasonable
9 doubt for felony DUI. The statute says, "A person who, one,
10 while under the influence of alcohol or drugs, or a
11 combination of drugs; two, a drives a motor vehicle; three,
12 when driving a motor vehicle does any act forbidden by law,"
13 in this case left of center, "or neglects any duty imposed
14 by law in the driving of the motor vehicle; and, four, that
15 act or neglect proximately causes great bodily injury or
16 death."

17 So how are we going to prove those elements? Again,
18 we're going to call witnesses up to the stand to testify.
19 We're going to present evidence to you all through pictures,
20 videos, reports. And I'm not going to go through every
21 single one of those, because I don't feel like this is an
22 appropriate time to do that, because you all are going to
23 get to hear all those throughout the trial. But just to
24 give you all a little small picture of some of the witnesses
25 you'll get to hear from, including Matthew Sanders himself.

1 He was in the truck with Jeremy Cockrell that night. You'll
2 get to hear from Matthew Sanders about how he saw the
3 headlights that night of the Defendant's truck come into his
4 lane. He curled up and he held on for what he thought was
5 going to be the last couple seconds of his life. You'll get
6 to hear from Matthew Sanders about his fractured left leg
7 and the recovery process. How he was not able to walk for
8 several months. But due to the work of a good doctor right
9 here in Greenwood, he has recovered. You'll get to hear
10 from several EMS workers who were on scene soon after this
11 wreck happened. Several other law enforcement officers.
12 One of those EMS workers, Derrick Oliver, actually hopped in
13 the truck with the Defendant that night. Hopped through he
14 passenger side window. Wasn't able to get in the driver's
15 side because of the damage. They actually had to cut the
16 Defendant out of the truck because he was stuck behind the
17 steering wheel. He hopped through in the passenger side
18 window to do everything he could to help Mr. Rowell, because
19 he was in bad shape. He hopped in that truck with Mr.
20 Rowell. Got right up next to him and said he smelled alcohol
21 all throughout the truck. And the one word that Mr. Rowell
22 was able to say over and over was help, help. And when he
23 did that, you'll get to hear from Mr. Oliver every time he
24 did that he smelled a strong odor of an alcoholic beverage.
25 You'll also get to hear from some of the doctors in

1 this case. The doctor that treated Matthew Sanders. The
2 doctor that treated Adam Rowell. You'll get to hear from
3 the nurses in this case about their involvement. And please
4 pay close attention to the evidence they bring to this trial
5 in regards to Mr. Rowell's impairment.

6 You'll also get to hear from law enforcement. There
7 was several officers involved in this case. Some of those
8 include Highway Patrol. You'll get to hear from them about
9 what they noticed, and actually took pictures of beer
10 bottles on the scene. One of the beer bottles actually being
11 in the back of the Defendant's truck. You'll get to see a
12 picture of that. You'll get to see a video of that. You'll
13 get to hear from them about how the Defendant was trapped
14 behind the steering wheel. So driving is not an issue here.
15 He was trapped behind the steering well.

16 You'll get to hear from the MAIT team, which basically
17 stands -- it stands for multidisciplinary disciplinary
18 accident investigation team. They come to the scene and
19 basically reconstruct what they -- what their position is
20 that happened that night. You'll get to hear from them
21 about the brake marks in the victim's lane. You'll get to
22 see pictures of that, where he slammed on brakes in his lane
23 of travel. You'll get to see gouge marks, which you'll hear
24 about those. The impact. The metal crushes into the
25 concrete and tears it up. Gouge marks. Chips out of the

1 concrete. You'll get to hear -- you'll get to hear about
2 and see pictures of the fluid that was all over the road
3 from the impact. Again, the majority of that fluid in the
4 victim's lane of travel.

5 Ladies and gentlemen, after you've heard all this
6 evidence -- or heard all this testimony, seen all the
7 evidence in this case -- again, you'll get to see some
8 pictures that we'll present through witnesses, and you'll
9 get to see some videos, and after you've heard all the
10 testimony, seen all the exhibits in this case, we're going
11 to be asking that you find and hold Mr. Rowell accountable
12 for his decision that night and you find him guilty of
13 felony driving under the influence resulting in the death of
14 Jeremy Cockrell, as well as guilty of felony driving under
15 the influence for great bodily injury. Thank you.

16 THE COURT: Thank you, Solicitor.

17 MR. GARRETT: Please the Court.

18 THE COURT: Mr. Garrett.

19 OPENING STATEMENT BY MR. GARRETT

20 MR. GARRETT: Mr. Foreman and ladies and gentlemen of
21 the jury, it's certainly a pleasure to be with you folks
22 here today. I know you all have a lot better things to be
23 doing than having to come here and take your time away from
24 your homes and your jobs and your families to participate in
25 this very important case. I thank Judge Hocker. Judge

1 Hocker is a former trial lawyer himself who has now ascended
2 to the bench and he's been a very good trial judge, and it's
3 just a pleasure to have an opportunity to work in front of
4 him. We've got a great court reporter. This is a well
5 skilled court reporter who's been in a lot of trials. They
6 usually get her because I talk too fast sometimes, so they
7 have to take it down real fast. So she's good. We've got
8 this great Clerk of Court that we just elected. And I just
9 want to thank all these bailiffs and all the people and all
10 the work that goes into the courthouse in order for us to be
11 able to try cases.

12 Ladies and gentlemen, His Honor said something to you
13 yesterday about being on the jury is the second most
14 important thing you can do as a citizen. And I want you to
15 understand that I also believe that. Our founding fathers
16 found it necessary to put a group of people, between the
17 power of the government on the one hand and us on the other
18 hand. In other words, as a buffer to protect us. And also
19 the Court's have said that we're going to allow a trial jury
20 to be picked from the area where you reside or where you
21 live. So you have your right to what they call a jury of
22 your peers. In the old says they used to stone you. If you
23 lived you would -- you would have passed the jury trial. So
24 thank God we have a lot better system than that today. And
25 I thank you all for being here.

1 Now, this is a difficult case. Our condolences, of
2 course, to the family of the decedent, Mr. Jeremy Cockrell.
3 Mr. Sanders was injured. But I also want you to know that
4 Mr. Rowell was seriously injured. Himself was seriously
5 injured. And I will tell you, ladies and gentlemen, that
6 you're going to hear a lot of evidence in this case, and
7 you're going to hear a lot of evidence from the State, and
8 you're going to hear a lot of evidence from the Defense.
9 You know, the State has got up here and told you what all
10 evidence that they intend to show. And I want you to listen
11 to that evidence, but I want you to also listen to it
12 critically. What do I mean? His Honor said keep an open
13 mind. And why should you keep an open mind? You should
14 keep an open mind because until you've heard all the
15 evidence then you're not in a position to make a decision on
16 this case. Now, we're also going to be able to put in some
17 evidence showing that there's beer in the decedent's car,
18 and there's also going to be some testimony about some drugs
19 in the body. Okay? So this is a two-sided story here. So
20 y'all keep an open mind until you've heard it all.

21 Now, in this case a lot of criminal defendants will
22 hide behind something called the Fifth Amendment. The Fifth
23 Amendment says you don't have to testify in your case
24 against yourself at all, and they can't cross-examine you.
25 You don't have to do that. Mr. Rowell has been charged with

1 this thing for 26 months. He asked for a speedy trial. He
2 wants to have his side of this case be heard and he's going
3 to testify and he's going to tell you his side of this case.
4 And his evidence is going to be different from their
5 evidence. But we believe that the evidence, once it's all
6 heard, you'll understand there's a reasonable doubt.

7 Now, I will tell you -- and I'm not sure if they will
8 allow me to. But I've got two pictures over here of my
9 client, Adam Rowell, at Walmart in the parking lot driving
10 his vehicle at 7:00 -- excuse me, at 6:36 that day. Why is
11 that important? You all are going to need to keep the eyes
12 on your time, keep your minds on your time. If he's at
13 Walmart at 6:36 -- we've got a picture of him driving his
14 car. The evidence will show that he drove his car, gave a
15 turn signal in the parking lot. Waited on somebody to walk
16 by, allowed another car to back out. He pulled in, got out
17 and went into the Walmart. We lose sight of him. In
18 Walmart we get to see him walking in Walmart where he was
19 there to purchase something they didn't have. He walked out
20 of Walmart at or about seven o'clock. Well, why is that
21 important? Well, the State wants to say this wreck happened
22 at 7:25. But it actually happened sometime before 7:20.
23 How do I know that? There's something called a CAD Report.
24 When we put that CAD Report into evidence I want you all to
25 see that. What does that CAD Report mean? It means that

1 somebody called in a wreck at 7:20. So the wreck had to
2 happen at 7:19, something like that. So we've got him there
3 at Walmart at 7:00. We've got a wreck at 7:19. Now, if he
4 is under the influence, how as he able to drive his car 19
5 minutes before fine, walk in Walmart fine, and then all of a
6 sudden be under the influence at the time of the accident?
7 That in and of itself is all the reasonable doubt that we
8 need in this case. You don't just jump up and become
9 intoxicated in 19 minutes. We believe --

10 MR. BLACK: Your Honor, we have a matter of law. I'm
11 sorry.

12 THE COURT: Okay.

13 MR. GARRETT: That's all right. I won't -- I won't
14 show it.

15 THE COURT: Okay. Was that what you wanted to discuss?

16 MR. BLACK: It is, Your Honor.

17 THE COURT: I think he's going to withdraw that at this
18 time.

19 MR. GARRETT: I'll withdraw --

20 THE COURT: Thank you.

21 MR. GARRETT: -- I'll withdraw the pictures. But I
22 submit to you I'm going to be able to show you some
23 pictures. I submit to you I'm going to be able to show him
24 at Walmart. The State don't want you to see that. Why is
25 that? Because that is inconsistent with their theory of the

1 case. In other words, you can't be in Walmart sober at
2 seven o'clock leaving there, drive through there, pull out
3 to the front of Walmart, make a right and go all the way
4 down to the CountyBank, make a left, go all the way down the
5 bypass. Nobody called in about bad driving before this
6 wreck.

7 We look forward to this trial, ladies and gentlemen.

8 THE COURT: Thank you, Mr. Garrett. Is the State ready
9 to call its first witness?

10 MR. BLACK: Yes, sir, Your Honor. The State calls John
11 Long.

12 JOHN LONG, having first been duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BLACK:

16 Q Can you introduce yourself to the jury, please.

17 A. Lieutenant John Long, Greenwood County Sheriff's
18 Office.

19 Q You work at the Sheriff's Department?

20 A Yes, sir.

21 Q Do you remember the night of November the 15th of 2014?

22 A Yes, sir.

23 Q Do you remember responding to -- or showing up at a
24 wreck on 225 kind of in Greenwood County near the Hot Spot
25 and the old fairgrounds?

1 A I do.

2 Q And can you tell us what you were doing that night?

3 A I was actually off duty. I was on my way home.

4 Q Where were you coming from?

5 A I work part-time at Skate Away USA. I had been there.

6 I was going home.

7 Q And where do you -- where do you live?

8 A In Ninety-Six.

9 Q And that's -- is that road the best way for you to get
10 home from Ninety-Six?

11 A I wouldn't say it's the best way, but it's usually the
12 route I take.

13 Q That night do you remember kind of what you saw on the
14 roadway that evening?

15 A I do.

16 Q Can you describe that to the jury, please.

17 A When I pulled up -- I was coming north to south, so I
18 had just crossed over 221 and I was headed south towards
19 Ninety-Six. Initially I did not see but one vehicle. And
20 then when I started assessing what was going on I seen the
21 second vehicle across the road.

22 Q Which vehicle did you see first?

23 A I think it was a red truck. Red pickup truck. It was
24 kind of on the guardrail.

25 Q And was there -- was there anybody in front of you?

1 A Not to my knowledge. I think I was -- I didn't
2 actually see an accident, but I think I was the first person
3 on the scene when it happened.

4 Q Okay. When you pulled up did you observe any, you
5 know, smoking of the vehicles or anything?

6 A You know, it's been almost three years, but I do
7 vaguely remember the red truck smoking. And you have to
8 keep in mind, when I first showed up I didn't realize it was
9 two vehicles involved in this accident, so I was focused
10 more on the red truck.

11 Q And when you pulled up did you get out of your car to
12 do something?

13 A I did. When I pulled up, you know, I assessed what was
14 going on. I immediately went to the red truck. And I'm no
15 medical professional, but I immediately realized that the
16 driver of the red truck was deceased. So I started talking
17 to the passenger. The passenger -- I couldn't get the door
18 open, but I could tell that his leg was obstructed by
19 something. And I felt like he was going to be okay. At
20 that time, you know, I put two and two together. There was
21 another vehicle. So I told him to hold on, and I went and
22 assessed the damage at the other vehicle.

23 Q And how far apart were these two vehicles, if you could
24 estimate?

25 A I mean, one of them was on the right shoulder of the

1 road on the guardrail. The other one was kind of -- it was
2 on the left shoulder. My left. But it was kind of in a
3 ditch. So I would say -- from what I recall, the vehicle on
4 the left was approximately one vehicle length off the road.

5 Q And the demeanor of the passenger in the red truck.

6 You said you made contact with him, right?

7 A I did.

8 Q What was his demeanor?

9 A He was pretty calm to be in a significant accident like
10 that. But he was pretty calm. He said that --

11 MR. GARRETT: Objection as to what might have been
12 said.

13 THE COURT: Right. Don't -- don't repeat what he said.
14 Just you can testify as to your observations --

15 THE WITNESS: Okay.

16 THE COURT: -- and anything that you may have said.

17 Q But he was talking though? Don't say what he said.

18 But he was talking to you? You were having a conversation?

19 A He was talking, and I could tell something was wrong
20 with his -- I think it was left leg. Something was wrong
21 with his left leg.

22 Q Okay. And how long did you try to open the door until
23 you left to go to talk to -- to try to make contact with the
24 black truck?

25 A I tried briefly. Then I went over to the other vehicle

1 that was on the other side of the road. Immediately I knew
2 there was nothing I could do for him. You know, the vehicle
3 was mangled. So I went back to the red truck and attempted
4 to get the passenger of that vehicle out.

5 Q How long were you -- how long had you made contact with
6 the vehicle in the darker truck, if you could estimate it?
7 A A minute, two minutes, 30 seconds, or --

8 A It did not take me long to assess that there was
9 absolutely nothing I could do for him. I had no tools. I
10 had no help. So I went back to the red truck. And that's
11 when, I think, Deputy Fallow showed up and me and him tried
12 to get the passenger out, which we were successfully
13 eventually.

14 Q So when you first got there you were pretty much the
15 only man on the scene for a few minute; is that right?

16 A Two to three minutes.

17 Q And Deputy Fallow ended up showing up; is that right?

18 A He did. From what I recall, he came in from the south
19 end. You know, I came in from the north end. He was on the
20 opposite side of the accident, on the south end.

21 Q Okay. How long did you end up staying at the scene
22 that night?

23 A I stayed at the scene all the way up until the time
24 that I -- I could be wrong, but I think there was a
25 helicopter involved, and I think they airlifted the

1 gentleman in the car across the road. So I stayed there
2 until he left and the other gentleman had been transported
3 by EMS.

4 Q What else did you do to kind of help out that evening?

5 A After we got the passenger out of the red truck I went
6 across the road and started helping EMS and fire extracting
7 the driver of that vehicle.

8 Q How did you end up getting the passenger out of the red
9 truck?

10 A We pried the door open and --

11 Q Who is we?

12 A Me and Evan Fallaw. And he was obstructed from getting
13 out, but we were able to free his leg enough to get him out
14 of the vehicle. Most of the damage on that vehicle was on
15 the driver's side. It kind of pushed the dash in on the
16 passenger side and he didn't want to cause further hurt to
17 himself, so he didn't want to move his leg. But we actually
18 assisted him with getting his leg out of there.

19 Q Was EMS involved at that time? Had they shown up?

20 A They showed up towards the tail-end of that. Again,
21 the vehicle was smoking, so we were trying to get him away
22 from it if we could --

23 Q yes.

24 A -- to prevent further damage.

25 Q Did you -- and then you said you went over to the

1 darker truck after that --

2 A Yes, sir. I did

3 Q -- to help him. What did you do to help him out?

4 A There was two firemen sitting there by this point when
5 I got over there. They were sitting there using Jaws of
6 Life -- or trying to use Jaws of Life to get him out of the
7 car. But I remember Jim Glagsby (PHONETIC) was driving the
8 rescue truck that night and he was having a problem with the
9 generator. So after they couldn't get it started I actually
10 went to the EMS truck and helped them get the generator
11 started.

12 Q What is Jaws of Life?

13 A It's a -- it's a tool that is used in situations as
14 such to pry open parts of vehicles to free people.

15 Q And have you ever used any of that -- that kind of
16 equipment before?

17 A I don't have any experience with using that.

18 Q Okay. But you observed them using that --

19 A I did.

20 Q -- that night?

21 A I did.

22 Q And they were eventually able to get the Defendant out
23 of that darker truck, right?

24 A They were, after a significant amount of work. I do
25 remember that the impact had moved his seat all the way into

1 the dash, and it was actually -- you know, car seats have
2 tracks on them, and it had jammed the track. So they were
3 having a hard time getting him out of the vehicle.

4 Q How long would you estimate that it took?

5 A From what I recall it took every bit of 20 -- 20, 30
6 minutes to get him out. I mean, it wasn't instant. It took
7 a lot of work to get him out.

8 Q And then after you all got him out, I guess EMS or
9 other personnel attended to him?

10 A They did.

11 Q And then you said there was a helicopter involved.

12 A Yes. And I think it -- on the end that my truck was
13 on, which would be the north end, I think in the curve there
14 is where they landed the helicopter, if my memory serves me
15 correctly.

16 Q And you said you were pretty much the first person on
17 scene until Evan Fallow showed up?

18 A Yes, sir.

19 Q How long after that did law enforcement -- did other
20 personnel from law enforcement, or EMS, or firefighters show
21 up? Was it pretty quick or did it take a while?

22 A Well, you know, I've worked a lot of crime scenes in my
23 life, and I've seen a lot of dead bodies and stuff, but that
24 night I actually -- I felt like I went into shock because I
25 had never prepared myself for that. So to me it felt like

1 forever. But I know that within three to five minutes --
2 because what I do, there were people showing up. You know,
3 I just -- I don't have a timetable for you on that.

4 Q Did you notice any -- did you smell anything while you
5 were kind of working out there? Could you smell any kind
6 of, you know, gas or fluids or -- it might be foggy in your
7 memory. I don't know if you can --

8 A Not that I recall.

9 Q I guess your primary responsibility was making sure
10 people were staying alive at that point?

11 A Yeah. I immediately I went into who can we save. You
12 know, I wasn't really concerned with what -- how it happened
13 or what got us to that point. I was into who can we save in
14 this situation.

15 Q Okay. And later on after-the-fact Highway Patrol, they
16 showed up, correct?

17 A They did.

18 Q And the MAIT team also showed up. Do you remember
19 that?

20 A I don't remember being there when they got there, but
21 I'm sure they did.

22 Q And do you remember about what time you were there? I
23 know it's been a while.

24 A I don't have a clue. I wish I did. I know it -- I
25 know it was dark.

1 Q It was dark?

2 A Uh-huh (affirmative.)

3 Q Was it cold that night, do you remember?

4 A I don't recall. I'm sorry.

5 Q That's fine.

6 MR. BLACK: Beg the Court's indulgence.

7 THE COURT: Sure. Take your time.

8 MR. BLACK: Please answer any questions Mr. Garrett Mr.

9 Garrett might have for you.

10 THE COURT: Okay. Cross?

11 MR. GARRETT: Yes, Your Honor. Thank you.

12 CROSS-EXAMINATION

13 BY MR. GARRETT:

14 Q Thank you for appearing here --

15 A Yes, sir.

16 Q -- Mr. Long.

17 MR. GARRETT: Can I have this marked as Defendant's

18 Exhibit No. 1.

19 THE COURT: Is that Defense 1?

20 MR. GARRETT: Yes, Your Honor.

21 (Whereupon, Defendant's Exhibit No. 1 was marked for
22 identification.)

23 Q Could you identify this for the jury? Tell them what
24 that document is?

25 A Yes, sir. It is a CAD Report from our 911 system.

1 Q And at that time, as I recall, you were pretty high up
2 in the administration of the Tony Davis -- Sheriff's
3 Department; is that correct?

4 A Yes, sir. I'm the director of 911.

5 Q You're the director of 911?

6 A Yes, sir.

7 Q So you know exactly what that is?

8 A Yes, sir.

9 Q And can you help the jury understand, if you're trying
10 to look at a site and you're trying to determine from the
11 dispatch when something happened, is that not a good tool
12 that we use in law enforcement?

13 A It's not always accurate, but it's a good tool.

14 Q Okay. And would you tell the jury what time the first
15 call came in and to whom it came in on in this case?

16 A In this case it looks like, from what the dispatcher
17 CAD is, on November the 15th, 2014 at 7:20 and four seconds
18 p.m. a call was taken by dispatcher Pam Balchin.

19 Q Now, if that happened at 7:20, somebody actually called
20 in -- and there's some testimony. We'll talk about that
21 later, about some people being on the other end that might
22 have went to the Hot Spot and called.

23 A Yes, sir.

24 Q Do you think you got there before they called or after
25 they called?

1 A I couldn't answer that. I don't know. I mean, I
2 didn't -- I don't recall calling dispatch. But it's common
3 when you have an accident, if somebody sees it, you have
4 multiple calls. I mean, that happens a lot.

5 Q Right.

6 A I couldn't answer that.

7 Q But would you agree then that that's probably the first
8 call, so the accident had to happen sometime prior to 7:20
9 in order for a dispatch call to be called?

10 A That is the first documented call to dispatch. Yes,
11 sir.

12 Q Thank you.

13 A Yes, sir.

14 MR. GARRETT: Move to introduce, Your Honor.

15 THE COURT: Okay. And what says the State?

16 MR. BLACK: No objection.

17 THE COURT: All right. Without objection, No. 1 for
18 the Defense.

19 MR. GARRETT: Thank you.

20 (Whereupon, Defendant's Exhibit No. 1 was admitted into
21 evidence.)

22 MR. GARRETT: Thank you, sir, for your service.

23 THE WITNESS: Yes, sir. Take care.

24 THE COURT: Anything in redirect?

25 MR. BLACK: No, sir, Your Honor.

1 THE COURT: Okay. Thank you, sir. You can step down.

2 THE WITNESS: Your Honor, can I be excused?

3 THE COURT: Any objections to --

4 MR. GARRETT: Without objection from the Defense.

5 THE COURT: -- Lieutenant Long being excused? You are
6 so excused.

7 THE WITNESS: Thank you.

8 THE COURT: Thank you.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 THE COURT: All right. Solicitor, next witness.

12 MR. BLACK: Thank you, Your Honor. The State calls
13 Evan Fallaw to the stand.

14 EVAN FALLAW, having first been duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BLACK:

18 Q Can you state your full name for the jury, please, sir.

19 A Evan Fallaw.

20 Q And, Mr. Fallaw, I'm going to go back to November the
21 15th of 2014. Do you remember working that evening?

22 A Yes, sir. I do.

23 Q Who were you working for at the time?

24 A I was working for the Greenwood County Sheriff's
25 Office.

1 Q And how long were you employed by them?

2 A Right at five years.

3 Q And you don't work for them any longer?

4 A I do not.

5 Q Okay. Where do you work now?

6 A I work at Davis and Floyd, Incorporated.

7 Q And when did you leave the Sheriff's Department?

8 A October the 22nd of last year.

9 MR. BLACK: Your Honor, may I approach the witness?

10 THE COURT: You sure can.

11 Q I'm going to hand you just what's been marked as
12 Defendant's Exhibit No. 1 put into evidence, just for your
13 benefit, Mr. Fallaw. Do you remember responding to a wreck
14 that occurred on 225 here in Greenwood County?

15 A Yes, sir.

16 Q And do you remember about what time you got the call to
17 respond to this wreck?

18 A Not the exact time.

19 Q I passed up a CAD Report. Are you familiar with what a
20 CAD Report is?

21 A Yes, sir. I am.

22 Q Can you look through that and kind of see if you see
23 your name on there?

24 A I got to the scene of the accident at 7:23.

25 Q When did you get the call to go out there?

1 A 7:21.

2 Q So you were pretty close in that area; is that right?

3 A That's correct.

4 Q Do you remember what you were doing that evening?

5 A I was at the intersection of Bypass 25 at the Hot Spot.

6 Q So you were real close to it?

7 A Yes, sir.

8 Q When you got there were you the -- were you the first
9 law enforcement officer there?

10 A That's correct.

11 Q What did you do when you got there?

12 A Well, when I first got there, of course, I turned on my
13 blue lights. I seen a red pickup truck sitting in the road.
14 I immediately got out of my patrol vehicle, went up to the
15 driver's side of that vehicle. Seen that the driver was
16 nonresponsive. And then I was met by John Long and another
17 male. I can't -- I don't know his name or where he came
18 from. They asked me to assist them of trying to get the
19 passenger door open of the red pickup truck. As we were
20 trying to do that and it was unsuccessful, I then noticed a
21 black -- what appeared to be a black truck down in the grass
22 on the right side of the road. I did not notice them when I
23 first pulled up, but when I did notice it I turned my
24 attention towards the truck and went -- went over there.
25 When I was over there I noticed the male in the truck to be

1 very distraught and out of it. That's when I looked at him,
2 and I told him, I said, help's on the way. Help's on the
3 way. Just hang in there. And after I said that he kind of
4 went -- kind of went limp.

5 Q Okay. Well, let me back up a little bit. How long did
6 you work on the passenger side of the red truck to try to
7 help get them out?

8 A I worked on it twice. The first time was -- I think I
9 pulled on it three or four times with John Long. So five or
10 six minutes maybe.

11 Q Did you all -- did you all get him out the first time?

12 A No, sir. We didn't.

13 Q Did you all get him out the second time?

14 A Yes, sir. We did.

15 Q Now, when you got him out, had you already gone to the
16 darker truck that was kind of down the way a little bit?

17 A Can you repeat that?

18 Q You said the second time you worked on him. Did you
19 leave the red truck and come back to it, or did you kind of
20 work on it continuously?

21 A No, I -- the first -- after not getting the door open
22 on the first time, that's when I went to the black truck.

23 Q Who -- did you go there alone or did John Long go with
24 you, or do you remember?

25 A I don't remember right off. But when I -- when I left

1 the black truck EMS and fire department was already there.

2 Then I went back to the red truck, and that's when -- that's
3 when the door -- that's when we got the door open on the red
4 truck.

5 Q And you all were able to get the passenger out of the
6 red truck?

7 A EMS was there. We just -- we just got the door open.
8 I think he was pinned and complaining of leg pains. So John
9 Long and I didn't touch him. EMS was there and assisted
10 him.

11 Q Now, when you went down to the darker truck, it was a
12 blue or a darker, blacker truck, how long -- how long were
13 you there at the black truck?

14 A Maybe five to seven minutes.

15 Q How close did you get to the truck?

16 A I'd say six or eight feet.

17 Q And you made contact with the driver of that vehicle?

18 A I did not -- I didn't not -- I spoke to him, but I did
19 not get close enough to touch him or anything like that.
20 No, sir.

21 Q And you visibly -- you visibly saw him though?

22 A Yes, sir. I did.

23 Q And you saw -- did you see the damage that was done to
24 the truck?

25 A Yes, sir. I did.

1 Q Was he -- how was -- how was the driver in that car?

2 How was he kind of pinned in the vehicle? Can you describe
3 that?

4 A From what I seen he was pinned in the driver's seat
5 behind -- the motor was pushed up pinning him behind the
6 steering wheel on the driver's side of the vehicle. It was
7 -- wasn't a pretty sight.

8 Q And that was the driver of the darker truck?

9 A Yes, sir.

10 Q And did you -- did you recognize the driver?

11 A Yes, I did.

12 Q And who was that?

13 A Adam Rowell.

14 Q And you know him; is that right?

15 A Yes, sir. I do.

16 Q And how do you know him?

17 A We went to school together.

18 Q And is that individual here in the courtroom today?

19 A Yes, sir. He is.

20 Q Can you point him out for us, please.

21 (Whereupon, the witness points to the Defendant.)

22 MR. GARRETT: Your Honor, we'll stipulate that he was
23 in the truck.

24 THE COURT: All right. So stipulated. You may
25 proceed.

1 Q How long were you at the scene that evening? I guess
2 you were probably working at 12 hour shift, right?

3 A That's correct.

4 Q 7:00 to 7:00, is that typically what you worked?

5 A 6:00 to 6:00.

6 Q 6:00 to 6:00. How long were you at the scene that
7 evening?

8 A I was available for another call at 10:26, so
9 approximately close to three hours.

10 Q Do you remember the helicopter coming and remember
11 seeing all that?

12 A Yes, sir.

13 Q Did you -- did you help the firefighters and the EMS
14 get Mr. Rowell out of the vehicle?

15 A I did not.

16 Q What were you doing at that point?

17 A Directing traffic.

18 Q Where at?

19 A On the south end of the wreck towards -- closest to
20 Highway 25 South.

21 Q So back towards the Hot Spot?

22 A Yes, sir.

23 Q Were you up there at 25 South or just kind of further
24 up the road a little bit?

25 A No, sir. I still had -- I still could see the wreck.

1 I was just -- I was in the curve right there, because there
2 was cars lined all the way back up towards the Hot Spot. I
3 was just turning everybody around right there at the wreck.

4 Q All right. How long -- how long -- how long was it
5 until you went up there and started directing traffic?

6 A As soon -- as soon as we got -- as soon as EMS got
7 there and fire got there I witnessed them start to work on
8 Mr. Rowell's vehicle, trying to get him out. And then I was
9 told by my immediate supervisor to start turning cars
10 around. That we were shutting down the road.

11 Q Okay. Do you remember smelling anything out there that
12 evening?

13 A I smelled, you know, the vehicle -- the fluid from the
14 vehicle, but that was about it.

15 Q When you got there were the vehicles still smoking?

16 A That's correct.

17 Q What about after -- after they kind of started -- once
18 they got the individuals out of the vehicles did you ever
19 notice any beer cans or anything?

20 A Yes, sir. I did. After everything -- after everybody
21 had left and the wrecker was coming to get the vehicles.

22 Q Where were they at?

23 A Located all around the black truck.

24 Q Did you smell anything at that time?

25 A No, sir. I didn't.

1 Q Were the cans -- did you notice if they in the vehicle
2 or outside the vehicle, or do you remember?

3 A I don't recall.

4 Q And you said that you went to school with Mr. Rowell.
5 Were you all in the same grade?

6 A No, sir. We wasn't.

7 Q What school did you all go to?

8 A Ninety-Six High School.

9 Q Whose older? You or him, or do you --

10 A He's a year older than I am.

11 MR. BLACK: I don't have any questions. Please answer
12 any questions Mr. Garrett might have for you.

13 THE COURT: Cross-examination from the Defense.

14 CROSS-EXAMINATION

15 BY MR. GARRETT:

16 Q Thank you, Mr. Fallaw, for being with us today, sir.
17 Did they hand you that CAD Report?

18 THE COURT: He's got it.

19 A Yes, sir. I've got it.

20 Q Can you look on that CAD Report and tell us what time
21 you think maybe the first call in was on this -- on this
22 occasion by whomever? Can you tell by looking at the CAD as
23 to who called in, or the first time a call was made about
24 this incident?

25 A I believe the initial 911 call was at 7:22.

1 Q Is there one that says 7:20?

2 A Yes, sir. There is, 7:20.

3 Q Is it fair for us to assume then that the accident
4 happened before 7:20?

5 A Yes, sir.

6 Q Okay. And this blue truck -- it's actually a blue
7 truck. But did you have an opportunity to see whether or
8 not there was a large tool chest that had been thrown out of
9 the truck that was laying at or near the truck?

10 A Yes, sir. I do recall --

11 Q Did you see that?

12 A I do recall it was something like that.

13 Q And do you recall, in fact, that it was open?

14 A No, sir.

15 Q You don't recall whether it was open or not?

16 A No, sir. I don't.

17 Q All right. And you don't have any idea where various
18 beer cans came from?

19 A No, sir.

20 Q Okay. Did you investigate the interior of the red
21 truck to see if there was any alcohol bottles or cans in the
22 red truck?

23 A No, sir. I didn't.

24 Q So you didn't really do the investigation yourself?

25 You were, again, there to try to direct traffic, let the

1 other folks take care of business, and you were there to
2 save lives if you could, help?

3 A That's correct.

4 Q And so, you were over there as it relates to the -- did
5 you tell me that you and John Long didn't actually pull the
6 guy out, but instead EMS pulled him out?

7 A John Long might have helped him. I know I didn't touch
8 him. But I do know that we got the door open, and as I
9 turned around I do remember EMS being there. John Long was
10 -- he might have helped. I don't -- I don't recall.

11 Q Do you know if John was the first one there? I thought
12 you said you were the first law enforcement officer there.
13 Was John there before you?

14 A Yes, sir. I was -- I was the first law enforcement
15 officer there on duty.

16 Q On duty?

17 A Correct.

18 Q But he is a law enforcement officer, right?

19 A That's correct.

20 MR. GARRETT: Beg the Court's indulgence.

21 THE COURT: Sure. Take your time.

22 Q During any of the time that you were there until you
23 left did you see anybody gathering up the cans or picking up
24 the cans or anything like that?

25 A No, sir. I didn't.

1 Q Do you know who was doing the investigation as far as
2 picking up stuff?

3 A No, sir. I don't.

4 Q Again, I understand you were doing something different.

5 A Yes, sir.

6 MR. GARRETT: Thank you.

7 THE COURT: Anything on redirect, Solicitor?

8 MR. BLACK: No, sir, Your Honor.

9 THE COURT: Thank you, sir. You can step down. And if
10 there's no objection you are free to leave.

11 THE WITNESS: Thank you, sir.

12 MR. GARRETT: Without objection.

13 MR. BLACK: No objection.

14 (Whereupon, the witness steps down from the witness
15 stand.)

16 THE COURT: Let's take a short morning recess. Ladies
17 and the gentlemen of the jury, I'll ask you to go back to
18 the jury room for a short break and we'll get you back out
19 shortly. And once again, I'll remind you, no discussion
20 about anything related to this case. And when you come back
21 out, Mr. Foreman, you'll take your designated seat in the
22 front.

23 (Whereupon, the jury exited the courtroom at 10:38
24 a.m.)

25 THE COURT: All right. We'll be in recess for a few

1 minutes.

2 (Whereupon, a recess was held from 10:38 a.m. to 10:52
3 a.m.)

4 THE COURT: We're back on the record. It's my
5 understanding that with the next witness the State intends
6 --

7 MR. DOWTIN: Your Honor, it's not the next witness.
8 It's just one of the highway patrolmen that we're going to
9 get to soon. So instead on having the jury out and then
10 send them back out to argue over this, we just figured we'd
11 go ahead and address it while they're out.

12 THE COURT: So there's a couple photographs that you
13 want to get in with an upcoming witness and the Defense has
14 an objection. Tell me, Solicitor, what the photographs are.

15 MR. DOWTIN: Your Honor, one of the photos is the
16 infamous Red Stripe bottle that's been talked about a lot in
17 the backseat of the Defendant's truck, and another one is a
18 picture of a Natural Lite bottle that was found in close
19 proximity to the Defendant's truck.

20 THE COURT: All right. And, Mr. Garrett, Mr.
21 Henderson?

22 MR. GARRETT: Our objection, Your Honor, is he says in
23 close proximity to the truck. I don't see the truck in here
24 at all in this photograph. It's just a picture of a beer
25 out there in the field somewhere. So our concern is that

1 it's not relevant unless it's tied to this truck somehow.

2 I'm not sure it's tied to this truck. If it was inside the
3 truck, you know, I've got a different position. But outside
4 the truck --

5 THE COURT: And this patrolman is the one who took the
6 pictures?

7 MR. DOWTIN: Yes, sir, he is. He took the pictures and
8 he's going to, I mean, talk about why he thought it was
9 important, and he wasn't 200 yards away taking pictures of
10 random bottles.

11 THE COURT: I'm going to allow it. It kind of goes
12 back to our discussion yesterday as it relates to the open
13 container and evidence of the existence of any beer bottles,
14 beer cans. So I'm going to allow it in. Your objection is
15 so noted for the record.

16 MR. GARRETT: Thank you, Your Honor.

17 THE COURT: But these pictures are not the next
18 witness, right?

19 MR. DOWTIN: Correct.

20 THE COURT: All right. Anything else before we bring
21 the jury out?

22 MR. DOWTIN: No, sir.

23 THE COURT: Okay. Let's bring the jury out, please,
24 sir.

25 (Whereupon, the jury entered the courtroom at 10:52

1 a.m.)

2 THE COURT: Let the record reflect the jury is back in
3 the courtroom. Solicitor, are you ready to call your next
4 witness:

5 MR. BLACK: Yes, sir, Your Honor. The State calls
6 Trooper Brunson Smith to the stand.

7 BRUNSON SMITH, having first been
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BLACK:

11 Q Trooper Smith, can you introduce yourself to the jury,
12 please.

13 A Yes. My name is Trooper Keith Brunson Smith.

14 Q And you work with the Highway Patrol?

15 A I do.

16 Q How long have you been with the Highway Patrol?

17 A Approximately four years with the Highway Patrol.

18 Q Were you in law enforcement prior to that?

19 A I was.

20 Q Where did you work?

21 A With the -- started out with the Due West Police
22 Department, and I was employed there for about three years.

23 Q And you went to -- did you go to Western Carolina?

24 A I did. I graduated from Western Carolina University.

25 Q And what was your degree in?

1 A Business management.

2 Q And you went to -- did you go to the Academy here in
3 South Carolina?

4 A I did. I intended the Law Enforcement Basic Training
5 at the South Carolina Criminal Justice Academy.

6 Q When was that?

7 A I was hired with Due West in 2010, and it was in the
8 spring of 2010.

9 Q How long is that course?

10 A It's -- it was a nine week basic training when I
11 attended.

12 Q When you got hired on with the Highway Patrol did you
13 have to go back and do the same class or did it count?

14 A I had to attend additional -- basically Highway Patrol
15 training was an additional 10 weeks.

16 Q And can you just kind of describe your duties and
17 responsibilities as a member of the Highway Patrol?

18 A In the Highway Patrol we investigate any collisions
19 that has occurred in the county. I'm assigned to Abbeville
20 and Greenwood Counties. We also enforce traffic law,
21 traffic violations.

22 Q So you write tickets and stuff like that?

23 A That's right, tickets, warnings. Making contact with
24 the motoring public.

25 Q And then respond to anything that might happen on the

1 roadways that you get a call from?

2 A Any kind of obstruction in the roadway. Trees down,
3 collisions, that sort of stuff.

4 Q I want to take you back to November the 15th of 2014.
5 Do you remember working that evening?

6 A I do.

7 Q What was your shift that day?

8 A It was a -- it was the night shift. I believe it was
9 6:00 a.m. -- or, excuse me, 6:00 p.m. to 6:00 a.m., night
10 shift.

11 Q And did you end up getting a call to respond to a
12 collision at 225 that evening?

13 A Yes, we did.

14 Q Do you remember what time that call came out?

15 A It was approximately 7:20, 7:30. Somewhere in that
16 neighborhood. We were -- we were eating supper in Ninety
17 Six.

18 Q And who is we?

19 A It was Corporal D.J. Bron, Lance Corporal Don Turner,
20 and Lance Corporal Cory Bishop, and myself.

21 Q And you all were eating -- where were you all eating
22 at?

23 A Las Cascades. It's a Mexican restaurant in Ninety Six.

24 Q Typically do you all eat together like before -- you
25 know, before the night shift starts or during the shift?

1 A We do.

2 Q That's not unusual?

3 A No, that's -- that's normal for us to all eat together
4 at the same place.

5 Q And so, did the call come out kind of while you all
6 were eating?

7 A It did.

8 Q And the call -- did it come over the radio?

9 A It came over the radio as a motor vehicle collision
10 with injuries and roadway being blocked.

11 Q So who ended up responding to the scene?

12 A Everybody on the shift. That was our shift that night.
13 We all responded to the scene from the restaurant.

14 Q And how long -- if you can give an estimate how long
15 did it take to get from the restaurant to that particular
16 scene?

17 A Ten, 15 minutes. We was running emergency equipment at
18 the time.

19 Q When you got to the scene did you all -- what's kind of
20 the first thing that you all did?

21 A Our first -- first responsibility on the scene is to,
22 you know, ensure the safety of the people involved in the
23 collision and try the best we can to secure the scene.
24 Lance Corporal Bishop was just in front of me. I believe he
25 arrived before I did. There was already emergency

1 personnel, fire and first responders on scene dealing with
2 the drivers and occupants of the two vehicles.

3 Q Do you remember about what time you all arrived?

4 A Approximately 7:30 p.m. Somewhere around in that -- in
5 that neighborhood.

6 Q And so, everybody that you guys were eating with, you
7 all went to the same scene, right?

8 A That's correct.

9 Q And what did you -- kind of set the scene for us. You
10 said EMS, fire department. What else was going on there?

11 A Well, we basically -- we noticed there was a passenger
12 that already had been transported from -- from one of the
13 vehicles. There was a driver of a 1990 Chevrolet pickup
14 truck that was nonresponsive and we were waiting on the
15 Coroner to confirm that he was no longer with us. And then
16 there was a driver in a 2005 Chevrolet pickup truck that was
17 entrapped behind the steering wheel in the driver's seat of
18 another vehicle.

19 Q And where were those vehicles kind of in relation to
20 each to each other?

21 A The 1990 red Chevrolet pickup truck, which was driven
22 by Mr. Jeremy Cockrell, was in the southbound lane kind of
23 offset near the guardrail. The 2005 Chevrolet pickup truck,
24 which was driven by Mr. Adam Rowell, was off the shoulder --
25 kind of on the shoulder of the northbound lane of 225.

1 Q Did you notice the damage that was done to both
2 vehicles?

3 A There was an -- yeah, there was extensive damage, and
4 it appeared that it was some sort of head-on collision with
5 the damage being to the front of both vehicles. Both
6 trucks.

7 Q When you arrived do you remember if the Defendant in
8 this case had already been extricated from his car, or do
9 you remember that?

10 A When I arrived he was still -- the fire department was
11 still attempting to get their equipment out. And it took
12 them -- took them several minutes, or a while, to actually
13 get him out of the vehicle.

14 Q Did you help with that at all?

15 A I did not assist in actually cutting or prying any
16 doors or anything like that. I basically just went up -- my
17 first initial response was to go up and check on him. Then
18 once emergency personnel was trying to get him out he looked
19 like he was in bad condition. That's when I stepped back
20 and kind of let them do their job.

21 Q How close would you say that you got to him?

22 A I walked up fairly close to the -- to the driver's side
23 part where he was sitting.

24 Q While he was still in the vehicle?

25 A Yes.

1 Q And he was behind the driver's steering wheel?

2 A He was.

3 Q And if you could give an estimate of how many feet that
4 was.

5 A Really just a few feet. Not far.

6 Q Did you notice -- how was his demeanor? The driver's
7 demeanor?

8 A Just seemed to be -- I think he was kind of in and out
9 of consciousness. A great deal of pain. And, you know,
10 emergency crews were working frantically to try to get him
11 medical attention as soon as possible.

12 Q And how -- was he pinned up in that car?

13 A Yes, he was -- he was pinned. I don't believe they
14 could open the driver's door. They actually -- I believe
15 they had to cut the top of the truck off to get him out of
16 the vehicle.

17 Q Did you notice anything -- any odors or any smells
18 while you were down there with the darker truck?

19 A I did. I could -- I could smell the odor of an
20 alcoholic beverage emitting from the driver's compartment
21 there on Mr. Rowell's side as he was -- as he was trapped.
22 Didn't stick around for very long. Once I noticed -- got
23 close enough to notice the odor of an alcoholic beverage I
24 kind of stepped back. They were getting out what they call
25 Jaws of Life. Some equipment to actually start working on

1 the truck.

2 Q Later did you confer with -- don't tell me anything EMS
3 said, but did you talk to EMS about what was going on?

4 A I did.

5 Q Emergency personnel about what was going on?

6 A I did.

7 Q Did you notice any -- any beer cans or anything around
8 the vehicle of that darker truck?

9 A Yes. There were. There were some beer cans within
10 close proximity of the 2005 Chevrolet pickup truck.

11 Q Were they cans or bottles? I don't know if you -- do
12 you remember?

13 A I don't remember. I do remember some bottles being
14 around the scene.

15 Q Do you remember anything inside the vehicle?

16 A Yes. There was a Red Stripe in the backseat of the
17 vehicle.

18 Q Did you examine that Red Stripe?

19 A I did. It smelled like an alcohol beverage. It had a
20 small amount of liquid in it.

21 Q And Red Stripe is a beer?

22 A It is.

23 Q There was a small amount of liquid, you said?

24 A Uh-huh.

25 Q Do you remember -- do you remember anything about how

1 much it was?

2 A I don't. I mean, there was -- it was also other beer,
3 you know, still inside the vehicle.

4 Q Trooper Smith, your vehicle, is it outfitted with video
5 camera equipment?

6 A It is.

7 Q And when you all make traffic stops or turn your blue
8 lights on does that video equipment begin? Does that
9 activate?

10 A It does. It activates upon initiating our blue lights
11 or siren.

12 MR. BLACK: May I approach the witness, Your Honor?

13 THE COURT: You sure can.

14 MR. GARRETT: Your Honor, as I understand it by prior
15 Court understanding, about 15 minutes and then go into the
16 Life Flight?

17 THE COURT: That's --

18 MR. BLACK: Yes.

19 THE COURT: -- based upon our conversations I think the
20 Solicitor indicated 10 to 15 minutes --

21 MR. GARRETT: Without objection.

22 THE COURT: -- you stipulated --

23 MR. BLACK: Right.

24 THE COURT: -- and then go into the -- a small portion
25 at the end. What Exhibit number is that, Solicitor?

1 MR. BLACK: I'll go ahead and move it into evidence.

2 It'll be No. 1 for the State, Your Honor.

3 THE COURT: Based upon the portions that will be played
4 it's without objection.

5 MR. GARRETT: That's correct, Your Honor.

6 THE COURT: And that's number 1?

7 MR. BLACK: Yes, sir, Your Honor.

8 (Whereupon, State's Exhibit No. 1 was admitted into
9 evidence.)

10 THE COURT: State's 1 into evidence.

11 MR. BLACK: Your Honor, you might have to bear with me
12 for a minute --

13 THE COURT: Sure.

14 MR. BLACK: -- to see if I can get this up.

15 (Whereupon, there was a pause in the proceedings.)

16 (Whereupon, State's Exhibit No. 1, in car video, was
17 published for the jury.)

18 Q Trooper, I'm going to pause it right here. Is that you
19 that just got out of the vehicle?

20 A Yes.

21 Q And can you just kind of set the scene? I see fire
22 trucks and EMS; is that right?

23 A That's correct.

24 Q One of the vehicles involved in the wreck, can you see
25 it from this particular angle?

1 A Yes. I can see partial -- part of it.

2 Q And where is it?

3 A Directly in front of the red 1990 Chevrolet pickup
4 truck.

5 Q And where is that? Can you describe it? Is it between
6 the ambulance and the fire truck it looks like?

7 A It's going to be in front of that -- in front of that
8 fire truck on the left and beside the ambulance. To the
9 left of the ambulance there.

10 Q And it looks like the hood's up? I don't know. You
11 might need to step down, Trooper.

12 THE COURT: You can step down and go to the screen and
13 point it out, if you need to. But when you talk be sure and
14 speak up loud because you're away from the microphone.

15 A Okay. Yeah, it looks like the -- the red truck there
16 with the hood up.

17 MR. GARRETT: I have my laser pointer if he wants it.

18 (Whereupon, the playing of State's Exhibit No. 1 was
19 continued.)

20 Q And, Trooper Smith, I'm going to stop it here. Can you
21 see firefighters and EMS working on the other truck from
22 this particular angle?

23 A I can see some first responders over on the right --
24 right-hand side of the ambulance.

25 Q That's kind of far right side?

1 A The very far right edge of the screen there.

2 Q And at this point they're still trying to get him out
3 of that vehicle?

4 A Yes, they are.

5 (Whereupon, the playing of State's Exhibit No. 1 was
6 continued.)

7 Q Trooper, that's about 15 minutes of the video. Is that
8 a fair and accurate representation of that night, how you
9 saw it?

10 A It is.

11 Q I'm going to fast-forward just a little bit. Once they
12 did get the Defendant out of the vehicle do you remember
13 where they took him?

14 A They air lifted him to Greenville Memorial Hospital.

15 (Whereupon, the playing of State's Exhibit No. 1 was
16 continued.)

17 Q This looks like on your dash-cam video 20:32:23. Do
18 you see the helicopter taking off at that point?

19 A I do see the helicopter.

20 Q And where is that?

21 A Just above the roadway, kind of offset to the right
22 there with the spotlight on it.

23 (Whereupon, the playing of State's Exhibit No. 1 was
24 continued.)

25 Q And that was the helicopter that took the Defendant?

1 A It was.

2 Q Once they extricated the Defendant from the vehicle did
3 you have any -- did you make any contact with him after that
4 point?

5 A Well, I had to -- I had to drive to Greenville Memorial
6 Hospital.

7 Q How about at the scene though?

8 THE COURT: Wait just a minute. Do I have an
9 objection?

10 MR. HENDERSON: Well, I just want to make sure he
11 doesn't go into certain things that we've previously
12 discussed. May we approach?

13 (Whereupon, a sidebar was held.)

14 MR. HENDERSON: Your Honor, we need to take up a matter
15 outside the presence of the jury.

16 THE COURT: Okay. Mr. Foreman, ladies and gentlemen of
17 the jury, we have a legal issue that I need to discuss with
18 the lawyers, so if you'll go back to the jury room.
19 Hopefully it won't take long and we can get you back out and
20 proceed forward.

21 (Whereupon, the jury exited the courtroom at 11:24
22 a.m.)

23 THE COURT: Okay, Mr. Henderson.

24 MR. HENDERSON: Your Honor, I know the testimony is
25 going there because Solicitor Black has confirmed it that

1 Trooper Smith is going to talk about getting the search
2 warrant for the blood test. And again, that kind of goes
3 back into our whole -- I don't want him talking about blood
4 tests --

5 THE COURT: Right.

6 MR. HENDERSON: -- if they can't lay the foundation
7 that the blood test even get in.

8 THE BLACK: But, Judge, I've got to get him to identify
9 it. So I don't know how else, if we're going to go there.
10 I plan -- Judge, what I plan on doing is -- just for the
11 court's edification, is to get him to talk about he was
12 mentioning that he was going up to Greenville. He's going
13 to testify that he went up to Greenville. Waited for
14 Defendant to get out of surgery. At that point he went in,
15 read implied consent, got the blood draw, and then I've --
16 I've got to get him to identify. His initials are all over
17 it.

18 THE COURT: Right.

19 MR. BLACK: Of course, we're not admitting it into
20 evidence under him but --

21 THE COURT: Right. And we're not getting into -- I
22 mean, we've got to have some starting point for these blood
23 draws. And even though we've got -- we're going to have to
24 make sure that the chain of custody is satisfactory and that
25 the other issues that will be raised. But we got to have a

1 starting point on these -- on these blood draws. And again,
2 they're not putting it into evidence nor indicating anything
3 about results. So, you know, at what point in time do we
4 start this process concerning the blood draws?

5 MR. HENDERSON: Well, Your Honor, I think the proper
6 time for the State to put up all -- whenever their ready to,
7 put up all their witnesses for chain of custody and
8 substance in order to get all that stuff before the jury,
9 because right now you're letting him talk about stuff before
10 the jury that may never come into evidence.

11 THE COURT: Right.

12 MR. HENDERSON: And again, it looks like -- I mean,
13 anything -- anytime something doesn't come into evidence it
14 can cut both ways. I don't want it to be held against Mr.
15 Rowell, but the jury thinks there's blood tests out here --

16 THE COURT: Right.

17 MR. HENDERSON: -- and yet they don't hear about one or
18 both of them, because it's always a concern.

19 MR. BLACK: Judge, I've only been doing this for three
20 years but -- I mean, I hate to say it, but that's
21 ridiculous. I've never seen it done that way.

22 THE COURT: All right. So I can make sure I understand
23 his involvement as it relate to blood draws. Tell me
24 exactly, Solicitor Black, this Trooper's involvement.

25 MR. BLACK: Your Honor, he was the arresting officer in

1 the case. After -- after the wreck clears up he drives to
2 Greenville. A search warrant was issued. I think the
3 Highway Patrol basically got on the telephone with each
4 other. A trooper from Greenville went to a Greenville
5 magistrate to get a search warrant signed. At that point he
6 meets Trooper Smith at the hospital, hands Trooper Smith a
7 search warrant. Defendant is in emergency surgery. Trooper
8 Smith waits for Defendant to get out of emergency surgery.
9 At that point he's essentially sitting there with the
10 family. The nurse comes back and says he's out of surgery.
11 You can come on back. He reads him implied consent. He
12 gets the nurse to do a blood draw. The blood draw has the
13 nurse's initials on it, as well as Trooper Smith. Trooper
14 Smith fills out the chain of custody. He takes possession
15 of the blood. He fills -- he gets the nurse -- he and the
16 nurse fill out a Greenville System Laboratory chain of
17 custody, in addition to a blood, urine data collection
18 report. The nurse signs it. Trooper Smith signs it. They
19 date it. And at that point the blood is taken into evidence
20 and taken down. It's brought back to Greenwood and placed
21 into evidence at that point.

22 THE COURT: I mean, this is the first witness in the
23 chain of custody, Mr. Henderson. I mean, we all have
24 acknowledged that we have to get into chain of custody and
25 if there's an issue there it may not -- the results may not

1 come in.

2 MR. HENDERSON: Right.

3 THE COURT: But as -- what I'm hearing Solicitor Black
4 tell me, this is the first one, first person, in the chain
5 of custody.

6 MR. HENDERSON: And I believe that is, Your Honor. But
7 my concern is that they can't get in the blood -- can't you
8 say evidence instead of blood evidence? I mean, the whole
9 idea is what -- what's my concern is the jury starts hearing
10 about blood and blood doesn't come in.

11 THE COURT: Right. Again, in order for the blood test
12 results to be admissible into evidence we have to establish
13 chain of custody of the blood. So I'm going to overrule
14 your objection. You may proceed, Solicitor, once we bring
15 the jury back out.

16 (Whereupon, the jury entered the courtroom at 11:29
17 a.m.)

18 THE COURT: Let the record reflect the jury is back in
19 the courtroom. Solicitor Black, if you'll start back where
20 we --

21 MR. BLACK: Yes, sir, Your Honor. Just briefly, the
22 State moved this into evidence. I just want the record to
23 reflect --

24 THE COURT: I think it's already been moved into
25 evidence without objection. Concerning the 10 to 15 minutes

1 that was shown to the jury and the very last portion as it
2 relates to the helicopter.

3 MR. GARRETT: And there's nothing else on that disc,
4 Judge? Just confirm that there's absolutely nothing else on
5 that disc.

6 MR. BLACK: No, there's more. The whole -- the whole
7 scene is played out.

8 MR. GARRETT: Right, Your Honor.

9 THE COURT: Right.

10 MR. GARRETT: We've got a limiting, so we need to -- we
11 would need to adjust that document before it comes in.

12 THE COURT: Right. I think probably what -- well, we
13 can handle it one of two ways. At some point during this
14 trial either one can take that and transfer it to another
15 disc just showing the 10 or 15 minutes, and then the end
16 part with the helicopter if that's possible. I see a thumbs
17 up, so --

18 MR. BLACK: I can't -- I can't do it, Judge, but
19 apparently --

20 MR. GARRETT: We can do it, Your Honor.

21 THE COURT: Let's -- maybe so we don't forget, if maybe
22 today we can do that and then we can just replace the disc
23 that's in evidence, so there's no question down the road.
24 Okay?

25 Solicitor Black, if you'll kindly go back to where we

1 were --

2 MR. BLACK: Yes, sir.

3 THE COURT: -- before we took the break.

4 MR. BLACK: Yes, sir.

5 Q Trooper Smith, how long were you out there at the scene
6 while all this was going on? Were you out there for a
7 while?

8 A I was.

9 Q Do you know about how long?

10 A I'm not sure of the exact time stamp. A pretty good --
11 probably an hour and half maybe. I'm not sure.

12 Q And it looked like on your tape it said 19:47 was about
13 the time you arrived. Is that 7:47?

14 A It is, yes.

15 Q What else did you do out on scene? I know we basically
16 just a 15 minute clip. Was there anything else going on
17 that you did, that you were involved with?

18 A Basically I just gathered all the information from
19 occupants, vehicle information, and started on the actual
20 collision report.

21 Q Okay. And that's a standard report that you guys
22 typically do?

23 A It is.

24 Q And you started looking at driver's license and running
25 that insurance and license plates?

- 1 A That's correct.
- 2 Q You did all that -- all that kind of stuff?
- 3 A I did.
- 4 Q Is that standard that you do?
- 5 A It is, on any collision.
- 6 Q Okay. Once you got done at the scene you ended up
- 7 leaving; is that right?
- 8 A That's correct.
- 9 Q Was there still a bunch of emergency personnel still
- 10 out there at the scene when you left?
- 11 A There were.
- 12 Q Now, where did you go?
- 13 A Went to -- I left there and drove straight to
- 14 Greenville Memorial Hospital.
- 15 Q And how long did that take you to get there?
- 16 A An hour maybe.
- 17 Q You weren't running blue lights to get to Greenville
- 18 were you?
- 19 A No. Just a normal drive.
- 20 Q When you -- do you remember about what time you arrived
- 21 at Greenville Memorial?
- 22 A I don't know specifically. Somewhere around 10:00,
- 23 10:30 maybe.
- 24 Q And what did you do when you got to Greenville
- 25 Memorial?

1 A I basically -- they just told me that he was still in
2 surgery. Didn't have access to the Defendant at that time.
3 I met with Trooper Josh Cannon who had went -- we had made
4 some phone calls previously. He had went by the Greenville
5 magistrate judge and got a search warrant for -- for a legal
6 blood draw.

7 Q And he met you at the hospital?

8 A He did. He met me over at Greenville Memorial
9 Hospital.

10 Q With the search warrant?

11 A He did.

12 Q And -- but you didn't have access to him when you first
13 arrived to the hospital?

14 A I did not. I waited in the -- the family waiting room
15 with other family?

16 Q And this was Greenville Memorial?

17 A It was.

18 Q Was it -- where was it at the hospital? The ER or some
19 other -- what wing was it, do you know?

20 A I'm really not sure.

21 Q That's fine. Do you know about how long you were at
22 the hospital until you -- until you could access Defendant?
23 Until you could talk to him?

24 A It's somewhere around a couple of hours. I waited in
25 the waiting lobby for a substantial amount of time before he

1 was -- I was able to go back and see Mr. Rowell.

2 Q And you eventually did go back and see Mr. Rowell?

3 A I did.

4 Q Do you remember about what time that was?

5 A Somewhere around 12:45. Somewhere around that time
6 period. 12:40, 12:45. There was a hospital security escort
7 me back into the ICU.

8 Q And when you were in the ICU was it just you?

9 A It was me and, of course, nurses and the other
10 personnel that worked there.

11 Q And Mr. Rowell?

12 A That's correct.

13 Q And do you recognize Mr. Rowell? Is he here in the
14 courtroom today?

15 A He is.

16 Q Can you point him out for us, please?

17 A In the suit with the blue -- blue undershirt there
18 standing up.

19 Q And did you see him at the scene as well? The accident
20 scene?

21 A I did.

22 Q And you saw him at the hospital as well?

23 A That's correct.

24 MR. BLACK: Your Honor, may I approach the witness?

25 THE COURT: You sure can.

1 MR. GARRETT: Your Honor, without objection to the
2 three documents. They are part of the record.

3 THE COURT: All right. Thank you. Without objection,
4 I assume those are 2, 3 and 4?

5 MR. BLACK: Yes, sir, Your Honor.

6 THE COURT: Are into evidence on behalf of the State.

7 (Whereupon, State's Exhibit Nos. 2, 3 and 4 were
8 admitted into evidence.)

9 Q Trooper, I'm showing you what's been marked as State's
10 No. 2. Can you identify that document for us, sir?

11 A Yes. It is the advisement of implied consent of rights
12 for felony driving under the influence.

13 Q And what is that form?

14 A This form here is what we read to the subject, or the
15 person that we suspect is being under the influence before
16 we can draw blood or get a blood or urine sample.

17 Q And is this done in pretty much any DUI case?

18 A It is. There's going to be a little difference as
19 opposed to felony and then regular DUI as far as the
20 verbiage, but it is done.

21 Q And that's the standard form that you all typically
22 use. Do you know about what time you read that to Mr.
23 Rowell?

24 A About 12:45.

25 Q And how do you know that?

1 A It's dated and signed after I -- after I read it. It's
2 got Mr. Rowell's information at the top. I signed it, date
3 it, put the time on it and just wrote unable to sign for Mr.
4 Rowell.

5 Q And that was at the hospital in the ICU room?

6 A It was.

7 Q Was a nurse -- was a nurse there when you read that?

8 A She was -- I don't know exactly if she was in there.
9 She was in and out doing her -- doing her duties.

10 Q And at that point did you have -- did you have the
11 search warrant in hand?

12 A I did.

13 Q And based on the search warrant did you -- what did you
14 do after that? After you read the implied consent?

15 A What I read? I read Miranda when I read the implied
16 consent, and then I, you know, advised the nurse that we
17 needed a blood and urine sample, and showed them a copy as
18 well of the search warrant.

19 Q And you read Miranda? Is that a pretty standard thing
20 that you guys do?

21 A It is.

22 Q Trooper, I'm showing you what's been marked as Court's
23 Exhibit No. 6 just for identification purposes. You
24 referred to a search warrant; is that right?

25 A Yes.

1 Q Is that the search warrant that was brought you by
2 Trooper Cannon of Greenville?

3 A This is Trooper Josh Cannon.

4 Q And you showed that to law -- or to the nurses at the
5 hospital; is that correct?

6 A That's correct.

7 Q And then based on -- based on that did you request --
8 or did you get a blood sample?

9 A I did. I received a blood sample and a urine sample.

10 Q And did you actually draw the blood? Are you licensed
11 to do that?

12 A No. It has to be done by licensed medical personnel?

13 Q I'm showing you what's been marked as State's No. 3 and
14 3. Can you -- they've already been put into evidence. Can
15 you identify those for us?

16 A I can. The first one here is the South Carolina Law
17 Enforcement Division urine, blood collection report. And
18 the second one is a chain of custody. This is for the
19 Greenville Hospital Systems from their -- from their
20 records.

21 Q And did you -- is your name on those forms?

22 A It is.

23 Q Are those standard forms that the Highway Patrol uses
24 when you all are collecting samples?

25 A Yes. The SLED urine, blood collection report is a

1 standard form any time we collect a sample.

2 Q And in this particular case who drew the -- who drew
3 the blood on this one?

4 A Leslie Childers.

5 Q She's a nurse up in Greenville?

6 A Appears to be an RN in Greenville.

7 THE COURT: Can you spell that last name, Trooper?

8 THE WITNESS: C-h-I-l-d-e-r-s.

9 THE COURT: E-r-s?

10 THE WITNESS: That's correct.

11 Q And what time was the blood and -- or the blood taken?
12 What time was it drawn?

13 A 105, so 1:05 in the a.m.

14 (Whereupon, State's Exhibit No. 5 was marked for
15 identification.)

16 Q Trooper, I'm showing you what's been marked as State's
17 No. 5. Can you identify what those documents -- what that
18 is?

19 A Yes. This is the two vials of blood that was obtained
20 from the search warrant, and a bottle of urine. Urine
21 sample.

22 Q And is your name on those vials? Can you see through
23 the evidence bag there?

24 A Yes, I can see my signature on it.

25 Q And what about the individual that drew the blood? Can

1 you see her signature?

2 A Yes, her signature is on it.

3 Q And you said what time -- what time was that -- the
4 samples taken?

5 A 1:05 a.m.

6 Q And once you received the samples what did you do with
7 the blood and urine?

8 A From there after I -- I mean, I left the hospital and
9 drove back to our Greenwood office, Post B, and logged them
10 into evidence.

11 Q Did you -- once you get the vial did you put them in a
12 bag or some sort?

13 A It's a box. It's a SLED urine collection box. We
14 actually seal it up with seals.

15 Q When did you seal that up?

16 A I sealed it in front of the -- in front of the nurse
17 after she takes the -- takes the blood and the urine. We
18 put the labels on it and sign it, put it in that SLED box
19 and it has a shipping kit seal and a police -- it's got two
20 seals, and an evidence seal as well.

21 Q And was that sealed up in her presence?

22 A It was sealed up in her presence. And then that's when
23 I transferred it back to the Greenwood office to log it into
24 evidence.

25 Q And you drove it back that night?

- 1 A Yes.
- 2 Q Did you drive it straight back to headquarters?
- 3 A I did.
- 4 Q Did you put it right into evidence that evening?
- 5 A Put it into the evidence dropbox.
- 6 Q Did you -- did you tamper with the sample at all?
- 7 A No, I didn't.
- 8 Q You didn't lace it with any Jack Daniels or anything?
- 9 A No, sir.
- 10 Q I'm going to ask you a couple more questions about the
- 11 second sheet. That looks like a chain of custody. Is that
- 12 what that is?
- 13 A That's correct.
- 14 Q And that's attached to the sample?
- 15 A It's a department -- it's a standard part of the public
- 16 safety chain of custody.
- 17 Q Can you -- I'm sorry. Can you tell us what time you
- 18 ended up -- does it have a time stamp on it?
- 19 A It does not have a time stamp on the -- you're
- 20 inquiring as to when it was logged?
- 21 Q But it's got dates?
- 22 A It does have dates.
- 23 Q And who did you receive the sample from?
- 24 A I received it from Ms. Childers at the hospital and
- 25 then placed it into the evidence dropbox.

1 Q And what was the date on that?

2 A November 16th, 2014.

3 Q Are there names after that?

4 A There are.

5 Q Who follows you?

6 A Sergeant Manley Harris is the evidence custodian for
7 Post B. He then logs it into the evidence room
8 refrigerator.

9 MR. GARRETT: Your Honor, is this not speaking --
10 speaking of hearsay? So we would object that -- as to what
11 he did certainly and -- but as to what other third parties
12 did we would ask --

13 THE COURT: Solicitor, do you plan to have -- and I
14 didn't get the name, but the Sergeant who is the evidence
15 custodian, do you plan to have him at some point in time?

16 MR. BLACK: I do, Your Honor. I can move on.

17 THE COURT: All right. That's good.

18 Q Trooper Smith, but you did -- you did bring that
19 evidence and put it back into the evidence refrigerator; is
20 that correct --

21 A That's correct.

22 Q -- that night?

23 A Uh-huh.

24 Q And from that chain of custody sheet there are other
25 names that handled that sample; is that right?

1 A That's correct.

2 Q And eventually where was that sample going? Was it
3 going to be tested?

4 A Yes. It was going to SLED. It goes to our Central
5 Evidence facility and then to SLED for testing.

6 Q Where is your Central Evidence facility?

7 A It's in Columbia.

8 Q And everything goes there before it goes to SLED from
9 the Highway Patrol?

10 A That's correct.

11 Q And anything that gets tested by SLED goes there first;
12 is that right?

13 A That's correct.

14 Q This might seem kind of like a redundant question,
15 Trooper, but the wreck that occurred that evening, was that
16 in Greenwood County?

17 A It was.

18 MR. BLACK: Trooper, I might have you step down just
19 for a minute. The State's offering State's No. 6 into
20 evidence, and I believe Mr. Garret said without objection.

21 MR. GARRETT: Without objection.

22 THE COURT: All right. Without objection, 6 for the
23 State into evidence.

24 (Whereupon, State's Exhibit No. 6 was admitted into
25 evidence.)

1 Q Trooper, while he's grabbing that, do you recognize
2 this layout?

3 A I do.

4 Q Can you tell us kind of what this is?

5 A This is a -- this is a map of the southern part of
6 Greenwood. It's in Greenwood County. This -- you have US
7 25, or South Main Street, or -- well, actually it's going to
8 be US 25 here at this point. This is the Hot Spot.

9 Q And the Hot Spot is labeled?

10 A The Hot Spot is labeled. This is SC 225. Here is the
11 fairground at Highway 221 South. And you got a small road
12 here. Scotch Cross Road West.

13 Q And where the scene of the wreck was, is that here on
14 the map?

15 A It is. This is the scene of the wreck. With this
16 being Highway 225 we're considering northbound is this
17 direction, southbound is this direction.

18 Q And there's a star there. Is that where the wreck
19 occurred?

20 A Yes, that's correct.

21 Q Trooper, you stated that you completed an accident
22 report; is that correct?

23 A That's correct.

24 Q And who was found to be involved in this particular
25 collision?

1 A Two drivers. One is Jeremy Cockrell and Adam Rowell.

2 Q And Jeremy Cockrell, which vehicle was he driving?

3 A He was driving the 1990 red Chevrolet pickup truck.

4 Q And the black truck was driven by Mr. Rowell?

5 A Yes, that's correct.

6 Q Before you left did you -- did you see the MAIT team
7 arriving at the scene? Did they show up that night?

8 A They did.

9 Q Do you know about what time that was? I know it's been
10 a while.

11 A I really don't recall.

12 MR. BLACK: Beg the Court's indulgence.

13 THE COURT: Sure, take your time.

14 Q Trooper Smith, just a couple brief questions. Have you
15 ever pulled anybody over for driving left of center?

16 A Yes, I have.

17 Q Is that considered a traffic violation?

18 A It is.

19 Q And you pull people over for doing that?

20 A That's correct.

21 Q And what -- explain that just for our -- for the jury's
22 edification. What is left of center? Crossing the yellow
23 line?

24 A Basically -- yeah, you have to drive the car right in
25 your lane. If you cross over the yellow line you can only

1 do so when it's permitted. Of course, being a dotted line,
2 and when it's reasonably safe to do so.

3 MR. BLACK: I don't have anything else. Please answer
4 any questions Mr. Garrett might have for you.

5 THE COURT: Cross-examination by the Defense.

6 CROSS-EXAMINATION

7 BY MR. GARRETT:

8 Q Trooper, you are the lead investigator on this case?

9 A Yes, I was the primary investigator.

10 Q Does that make you in charge of the investigation?

11 A Yes.

12 Q And others had already been on the scene before you got
13 there; is that correct?

14 A That's correct.

15 Q And did you take pictures yourself or did somebody else
16 take pictures for you?

17 A Somebody else took the pictures.

18 Q I'm going to hand you -- I just want to hand these up
19 to you right now. There's five photographs in there. See
20 if that refreshes your recollection as to the scene out
21 there that evening. Do those refresh your recollection?

22 A It does.

23 Q And the blue truck driving by Mr. Rowell, did it have
24 in the back of it -- did it have what's commonly referred to
25 as a toolbox?

1 A It did.

2 Q And when you arrived on the scene was the toolbox
3 outside of the truck or inside the truck?

4 A I really don't know. I don't remember. In this
5 picture it appears to be outside on the ground.

6 Q Okay. And on the picture also, if it was an open-bed
7 truck -- and it was an open-bed truck? In other words, it
8 didn't have a camper on it?

9 A That's correct.

10 Q Do you know whether or not it was -- the unit itself
11 had popped open during the fall? Did you investigate that?

12 A I do not know.

13 Q And if you look at that you can see that there's wasted
14 beer bottles in there, right?

15 A That's correct.

16 Q And if you'll look at that photograph you'll see that
17 there's some wasted beer bottles in front of that toolbox.

18 A That's correct.

19 Q And it don't look like those were recently consumed, do
20 they?

21 A Unsure on if they were recently consumed, what your
22 definition of that is.

23 Q Now, as the chief investigating officer out there that
24 evening, did you pick up any of those bottles and bring them
25 here or tag them and -- just like you did with that blood

1 and that urine, did you bring us a bottle where you took it
2 from the scene?

3 A No, I did not.

4 Q Did you bring any of that stuff that was in any of
5 those bottles so we can analyze it to see whether or not it
6 was beer?

7 A No, we did not.

8 Q Did you bring us any to let us know whether or not it
9 was something other than just the bottom of a beer that most
10 people leave in the bottom of a beer of whether or not it
11 was partially consumed or whatnot?

12 A I did not bring any of that.

13 Q Where -- what did you do with those alleged beer
14 bottles that you testified to?

15 A I guess they were taken with -- with the wreckage, or
16 the vehicle.

17 Q And you didn't take any time to look at those closely
18 to see about fingerprints or check out and see who's it was
19 and all those kinds of things so we can let the jury see it?

20 A I just remember inspecting the one in the vehicle in
21 the passenger compartment.

22 Q All right. Now, who showed that to you?

23 A Sir?

24 Q Who showed that one to you?

25 A I don't recall who showed it to me.

1 Q Did you remove it?

2 A No, we did not remove it from the truck.

3 Q Did you put it in there?

4 A No, sir.

5 Q I'm going to let you look at three photographs and tell
6 me if you can identify those.

7 A Can identify them.

8 Q Sir?

9 A Yes. These are three photographs from Mr. Rowell's
10 truck.

11 Q This is the interior of the truck?

12 A That's correct.

13 Q All right. I want you to look at this picture. And
14 you see those sunglasses in there?

15 A I do.

16 Q Is there a beer bottle on top of it somewhere?

17 A No.

18 Q Is there a beer bottle in that picture at all?

19 A Not in this picture.

20 Q I'll show you the next picture.

21 THE COURT: Can you refer to the exhibit number,
22 please, Mr. Garrett.

23 MR. GARRETT: Let me go ahead and mark them then. I'm
24 sorry. Let me get my glasses on, Judge. I'm a little slow
25 here.

1 THE COURT: That's all right.

2 MR. GARRETT: All right. That would be Court's Exhibit
3 No. 1.

4 (Whereupon, Court's Exhibit Nos. 1, 2 and 3 were marked
5 for identification.)

6 Q In that picture is there any beer or beer bottle on the
7 seat?

8 A No, there was not.

9 Q And let me let you look at Court's Exhibit No. 2. Is
10 there now all of a sudden a beer bottle on top of the
11 glasses that we were referring to a while ago?

12 A There is.

13 Q And is this not the same pair of glasses that the
14 bottle has been moved?

15 A Yes. It's a little -- little bit different location
16 there.

17 Q And who picked it up to move it? Did you move it?

18 A Well, I would have smelled it to make sure that there
19 was beer in the container.

20 Q So you would have picked it up to move it?

21 A Just to smell and make sure that there was actual
22 liquid in it and it smelled of an alcoholic beverage.

23 Q And you didn't bring that with you today?

24 A I did not.

25 Q To smell it just to see what was in it?

1 A I just confirmed that there was a presence of beer in
2 the container.

3 Q Now, was the -- those first photographs that I showed
4 you. Let me see if I can get my hands on those. Do you see
5 where people are throwing parts of the vehicle into the
6 toolbox?

7 A I can see that. It looks like something -- a portion
8 off the dash.

9 Q So there's a portion off of the dash in the toolbox?

10 A That's correct. It appears to be.

11 Q All right. So is it the State's position, or you as a
12 highway chief investigator, that that wreck scene was
13 completely pristine? Nobody moved anything or put anything
14 where it shouldn't be or picked up trash when they shouldn't
15 have, or any of that?

16 A We -- we try to secure the scene the best we can. With
17 as many volunteer firemen and other first responders on the
18 scene, you know, they do tend to start policing up -- or
19 that's what we call it. It looks like somebody put a part
20 off the dash into the toolbox of the truck.

21 Q So it's fair to say that once they cut the -- the tops
22 been cut off in those pictures; is that not correct?

23 A That's correct.

24 Q So if somebody was trying to pick up some stuff and
25 throw it in the truck they could have done that? I mean,

1 you weren't there watching it to see?

2 A I wasn't there the entire time watching over the
3 volunteer firemen.

4 Q Now, y'all got another search warrant a little later,
5 didn't you?

6 A We did.

7 Q And that search warrant was to go out to look at the
8 vehicles to see whether or not you could find any alcoholic
9 beverages spilled out in the vehicle; isn't that correct?

10 A I didn't procure that search warrant and I didn't do
11 that investigation. I thought you were referring to another
12 search warrant.

13 Q But you were the chief -- you were the chief officer on
14 this case. You didn't go out and look at the vehicle to see
15 whether or not it had any spilled alcohol in it?

16 A There was spilled alcohol in the passenger floorboard
17 when I observed it.

18 Q Well, y'all a search warrant and you didn't get a
19 return showing that, did you?

20 A I'm unsure of the search warrant that MAIT - the MAIT
21 team may have done.

22 Q Again, that's another piece of evidence. You could
23 have cut it out, have it analyzed, bring it in here, mark
24 it, show your chain of custody and show the jury there's
25 spilled alcohol in that vehicle, right?

1 A That's completely -- you know, I didn't do that search
2 warrant. That would have been the MAIT team's
3 investigation.

4 Q All right. Now, let me ask you about these -- these
5 bottles seem to be laying down. So these bottles are in a
6 laying down position. Wouldn't you agree with that?

7 A It looks like they're laying on the side.

8 Q Huh?

9 A It looks like it's laying on its side. The bottles are
10 laying over on the side.

11 MR. BLACK: Judge, I don't think he can see that. If
12 he can show him the pictures.

13 MR. GARRETT: I'm sorry.

14 A I can see it.

15 Q Are they laying on the sides?

16 A That's correct.

17 Q So you don't know whether there was any --

18 MR. BLACK: Judge, I'm going to object. I don't think
19 those have been entered into evidence yet.

20 THE COURT: They have not. They have been marked as
21 Court's exhibit for other purposes.

22 MR. GARRETT: Let me go ahead and put them into
23 evidence then, Your Honor.

24 THE COURT: What says the State?

25 MR. BLACK: I don't know if the foundation has been

1 laid. I think that might be the next witness that took
2 those pictures.

3 MR. GARRETT: I'm stipulating that these are pictures
4 that were made that night, Judge, and he's refreshed his
5 recollection with them. I'm okay with them coming in.

6 THE COURT: Well, if this witness can testify that it's
7 an accurate representation of whatever he saw, even though
8 he may not have taken the photographs, if he -- if he knows
9 that they were taken by another trooper and if it's an
10 accurate representation he can testify to that. I don't
11 know -- but if he can, then I think they're --

12 MR. BLACK: If they can be authenticated through him
13 then we don't have a problem with it.

14 THE COURT: All right. So maybe kind of lay a little
15 bit more foundation before they come in, Mr. Garrett.

16 Q The photographs were made by your agency that evening?

17 A That's correct.

18 Q You didn't do the photographing yourself?

19 A I did not.

20 Q All right. But you have looked at these and this is
21 the bottle that you say you found in the back; is that
22 correct?

23 A That's correct.

24 Q Now, you've looked at them. Is this a fair and
25 accurate representation of the condition of the vehicle that

1 evening?

2 A It is.

3 MR. GARRETT: Your Honor, I move to introduce them into
4 evidence.

5 MR. BLACK: No objection.

6 THE COURT: Without objection Court's 1, 2 and 3 are
7 now Defense 2, 3 and 4.

8 (Whereupon, Defendant's Exhibit Nos. 2, 3 and 4 were
9 admitted into evidence.)

10 Q The five photographs I handed you earlier -- are there
11 five or six?

12 A Five. Five photographs.

13 MR. GARRETT: Let me just staple those and just mark
14 those as one.

15 (Whereupon, State's Exhibit 5 was marked for
16 identification.)

17 Q Is that an accurate representation of the condition of
18 the vehicle that evening?

19 A It is.

20 MR. GARRETT: Move to introduce these into evidence,
21 Your Honor.

22 MR. BLACK: No objection.

23 MR. GARRETT: All right. Without objection the -- as
24 one exhibit, Defense 5.

25 (Whereupon, Defendant's Exhibit No. 5 was admitted into

1 evidence.)

2 Q Now, getting back to the question I was asking you.

3 These bottles are lying down; is that correct?

4 A That's correct.

5 Q And that's the same bottle?

6 A It is the same bottle.

7 Q Where's the second bottle? You testified at the
8 preliminary hearing, did you not?

9 A I did testify.

10 Q That there were two -- two bottles.

11 A I don't really remember exactly what was stated in the
12 preliminary hearing.

13 Q Let me show it to you.

14 A Okay.

15 Q I'll let you glance over this.

16 MR. GARRETT: Beg the Court's indulgence.

17 THE COURT: Sure.

18 Q I'd like for you to just look over your testimony.

19 MR. GARRETT: May I publish these, Your Honor?

20 THE COURT: Sure. I believe he's ready. I think he's
21 looked over it.

22 MR. GARRETT: Right.

23 Q Now let me hand you an unmarked copy. You got my
24 marked -- and you've had a chance now to go back and read
25 it. Do you recall saying that there were more than one

1 multiple containers of beer. They were Red Stripe was the
2 brand bottle opened inside the vehicle of the truck.

3 THE COURT: Can you refer him to a page number, Mr.
4 Garrett?

5 Q Page seven, lines two in your answer.

6 A I stated there were multiple open containers of beer,
7 and then I stated that the Red Stripe was the brand open
8 inside the vehicle of the truck.

9 Q Now, I've given you those photographs. Were there
10 multiple, and you told -- you swore to tell the truth at the
11 preliminary hearing, didn't you?

12 A That's correct.

13 Q Okay. Were you mistaken, or did you purposely tell the
14 Court that there was more than there were?

15 A No, sir. I didn't purposely mislead. I was speaking
16 of the open containers in and around the scene. It was
17 photographed within close proximity of the -- of the truck.
18 And then I pointed out that there was a Red Stripe bottle
19 was -- was open inside of the truck.

20 Q I'm reading you exactly what you said beginning at line
21 two.

22 A Uh-huh.

23 Q You said, "Mr. Rowell had multiple open containers of
24 beer. They were - Red Striped was a brand -- bottle open
25 inside the vehicle of the truck."

1 A That's correct.

2 Q And I asked you later on, if you'll go to page eight,
3 number 19. I asked you, "You said multiple containers of
4 beer, open containers of beer. How many do you have
5 possession of?"

6 A That's right. There were -- well, there were multiple
7 open containers of beer. There was multiple brands as well.

8 Q You said, "I do not have possession of them."

9 A That's correct.

10 Q And then I said, "Well, where are they at?" What did
11 you say?

12 A "I guess they remained with the vehicle and logged into
13 evidence."

14 Q And then I -- and then you also said, "Multiple. I
15 mean more than two. I didn't count exact."; is that
16 correct?

17 A That's correct.

18 Q Now, are you familiar with the South Carolina
19 Department of Public Safety policy for evidence?

20 A I am.

21 Q I'll just have you glance at that and make sure that's
22 the one you're operating under. I'll give you a moment.
23 You don't have to read the whole thing. I'm just going to
24 go really through the front page.

25 A Yes, sir.

1 Q Okay. Could you tell the jury what that is?

2 A This is a policy for the South Carolina Department of
3 Public Safety regarding evidence.

4 Q And what are you supposed to do with evidence based
5 upon your South Carolina Highway Patrol policy?

6 A It appears that any evidence shall be properly secured,
7 labeled and stored, and any change in custody shall be fully
8 documented.

9 Q And as to this alleged beer evidence, was that done in
10 this case?

11 A That beer was not collected.

12 Q Would you go to page four where it talks specifically
13 about alcohol and what you're supposed to do as the chief
14 investigating officer investigating a case where you're
15 making an allegation about alcohol? Page four under
16 alcohol.

17 A Okay. I got it. Do you want me to read it or --

18 Q Why don't you read it to the jury. Have you read it?

19 A Yes. I'm reading it now.

20 Q Is that part of your policy? I mean, we're reading
21 from the same book or the same manual; is that correct?

22 A That's correct.

23 Q What does it say you're supposed to do with alcohol?

24 A It says, "Alcohol beverages that are seized as evidence
25 are to be placed in evidence bags, concealed with evidence

1 tape and stored in the authorized storage area until the
2 time of trial.

3 Q Was that done in this case like it was supposed to be
4 done in this case?

5 A I believe this is referring to -- we didn't -- we
6 didn't seize any alcohol. So we didn't label it. We didn't
7 -- we didn't hold it for storage until the time of trial.

8 Q But you charged him, didn't you?

9 A Yes, I did.

10 Q Okay. And just because you've got a charge for an open
11 container --

12 MR. BLACK: Objection, Your Honor. I've got a matter
13 of law.

14 THE COURT: Let's see if we can handle it sidebar.

15 (Whereupon, a sidebar was held.)

16 Q Getting back to the thorough investigation of this
17 case. Did you examine the red truck?

18 A I did.

19 Q And did you find any open containers in the red truck?

20 A It was on the floor behind the -- behind the seat of
21 the truck.

22 Q Behind the seat of the truck. Did you check that?
23 Pull it out and check it?

24 A I did. I mean, I checked it and there was no --
25 appeared to be -- appeared to not be fresh.

1 Q When did you pick it out?

2 A When I -- just when did I pick it out of the truck?

3 Q When did you take it out of the truck?

4 A I never took it out of the truck. I mean, I just
5 checked it quickly.

6 Q Sir, I'm going -- I'm telling you, I got some pictures
7 where that stuff is wedged in there. How did you get it
8 out?

9 A There's a -- there's a piece beside the seat there, and
10 then there's another one. I believe it was on the ground
11 outside of the driver's door.

12 Q Okay. And you lifted it up and smelled it?

13 A Yeah. They didn't appear to be fresh.

14 Q Put it back down?

15 A That's correct.

16 Q So you can tell fresh alcohol from non-fresh alcohol?

17 A I mean, it's got -- we just checked to see if it's got
18 a strong smell and if it's got liquid in it at the time.

19 Q Okay. And did it have any liquid in it at the time?

20 A Not that I recall.

21 Q And none of this got bagged or none of it got put into
22 the evidence so the jury could see it?

23 A It did not.

24 Q And are you telling me that every one of those beer
25 bottles that are all out there on the ground belong to Mr.

1 Rowell and didn't belong to anybody else? Is that what
2 you're telling this trial jury?

3 A I'm not making any -- telling you anything about they
4 were all Mr. Rowell's.

5 Q Okay. But the only one that was in the vehicle was the
6 one that we've got the picture of; is that correct?

7 A Are we talking about the --

8 Q No. I'm back to Mr. Rowell now. I was talking about
9 his car.

10 A Okay. The red truck.

11 Q There wasn't multiple containers in the car. Do we
12 agree with that now?

13 A There was some closed ones. They were not open.

14 Q Closed ones. Where were the closed ones at?

15 A I believe they were in some kind of bag or satchel in
16 the backseat.

17 Q All right. Well, who opened that satchel?

18 A Took a quick peek inside of there. It was open on top.

19 Q Who opened the top of the satchel?

20 A Unsure.

21 Q I've got pictures of that satchel closed.

22 A Okay.

23 Q So if that bottle of beer -- that empty bottle of beer
24 was supposed to be in that satchel with other unopen beer
25 then somebody moved it out of there, didn't they?

- 1 A I'm unsure if it was --
- 2 Q So you don't know who opened up his private bag and
- 3 moved some stuff out into the body of the truck away from
- 4 the bag itself?
- 5 A I do not recall.
- 6 Q But you do know that the bag was closed, right?
- 7 There's pictures of it.
- 8 A Okay. I'm unsure. I didn't take the pictures.
- 9 Q Okay. So we know then that if the bag was closed,
- 10 somehow somebody opened the bag before you looked into it,
- 11 right?
- 12 A I really don't recall as to when the bag was open or --
- 13 Q You didn't have anything to do with opening that bag,
- 14 right?
- 15 A Not to my knowledge.
- 16 Q Well, you said you took a peek in there.
- 17 A It was -- I remember it being open and there was some
- 18 closed -- I mean, they were not open containers in the bag.
- 19 Q Well, do you know how when we got the bag back it had
- 20 open containers in it, left in the car?
- 21 A Unsure.
- 22 Q Sir?
- 23 A There were still open containers in the bag?
- 24 Q Yes, sir.
- 25 A Okay.

1 Q Do you know how they got in there?

2 A I do not.

3 Q When the car was turned back over to the impound?

4 A I do not have any idea.

5 Q Do you -- you know what time Adam Rowell was at Walmart
6 on the night in question, what time the video shows that he
7 was at Walmart?

8 A I have no idea that he was at Walmart.

9 Q Would it shock you if he was at Walmart until about
10 7:00, right before this accident?

11 A Could have -- could have been.

12 Q Did you do an investigation as to his whereabouts prior
13 to the accident?

14 A I did not.

15 Q And now, on this blood draw thing that we're talking
16 about, I found it interesting you said he was unable to
17 sign; is that correct?

18 A That's correct.

19 Q Isn't it true that Adam was in a coma for two weeks
20 after his surgery from a concussion, so he had no idea what
21 you guys were doing there? Is that true?

22 A That's true. He stayed in the hospital for some time,
23 but I don't know exactly what his medical condition was.

24 Q Are you aware that they gave him 14 units of blood
25 replacing almost all of his blood before you all took that

1 test?

2 A I was aware that they had given him some -- some blood.

3 Q They gave blood on the flight and they gave a lot of
4 units during the surgery; is that correct?

5 A I knew that they had gave blood sometime from the time
6 he left to the time we drew our blood sample.

7 Q Can you tell me why you were reading Miranda warnings
8 to somebody who was comatose?

9 A It's just a -- normally we read Miranda and implied
10 consent even if they're not conscious.

11 MR. GARRETT: Okay. Thank you.

12 THE COURT: Redirect?

13 MR. BLACK: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. BLACK:

16 Q Trooper Smith, have you ever written an open container
17 ticket before?

18 A I have.

19 Q Typically when you do that do you collect the evidence
20 and send it off to SLED to be tested?

21 A No, I don't.

22 Q Have you ever done that?

23 A I've never sent any kind of open container to SLED to
24 be tested. I've never logged in a -- to my knowledge, a
25 beer can. I know I've logged in a liquor bottle, but not a

1 beer can.

2 Q Okay. When you got to the scene that day the Defendant
3 was still pinned in his car; is that right?

4 A That's correct.

5 Q And you -- did you go over there and observe him in the
6 car and EMS trying to help him out?

7 A I did.

8 Q Did you notice an EMS individual in the vehicle with
9 him?

10 A I do not really recall.

11 Q What about the Jaws of Life, how does that thing work?
12 Can you describe to the jury how that machine works?

13 A Really -- really don't know if it's a pneumatic tool.
14 I believe it is, but I'm really not sure. I know it's power
15 operated to be able to cut metal, bend metal, and they have
16 different attachments that they can pry or cut or that sort
17 of thing.

18 Q So while the Jaws of Life are kind of helping extricate
19 the Defendant from the vehicle there was a lot of people
20 there trying to work on him and help him out and get him out
21 of the car?

22 A That's correct.

23 Q So at that particular time is it safe to say that
24 everybody was more concerned basically about saving his life
25 than figuring out if there were beer bottles in the car?

1 MR. GARRETT: Objection, Your Honor. I object to that
2 question as leading and he's making a statement.

3 MR. BLACK: I'll withdraw the question.

4 THE COURT: Okay. You can ask what he -- what he was
5 thinking. What he had in mind.

6 Q How many people were helping the Defendant that day
7 trying to get out of that vehicle? Was there a lot of
8 people trying to --

9 A There was multiple people. I don't have an exact
10 number.

11 Q Firefighters?

12 A I believe there was volunteer fireman.

13 Q EMS?

14 A Yes.

15 Q Lots of people around that vehicle?

16 A That's -- that's accurate.

17 Q Trying to save his life?

18 A That was our number one goal was trying to save Mr.
19 Rowell's life.

20 Q After they did get him out of the vehicle that's when
21 you would observe the vehicle -- the contents of the
22 vehicle; is that right?

23 A That's correct.

24 Q Typically when you observe evidence and go through
25 contents of a vehicle do you pick it up and look at it?

1 A Yeah.

2 Q In this particular case did you look at the contents in
3 the vehicle?

4 A I did.

5 Q Did you pick the Red Stripe bottle up in this
6 particular case?

7 A I did.

8 Q Do you remember where it was?

9 A In the backseat, as far as I can remember.

10 Q Now, do you remember -- did you smell it?

11 A Uh-huh.

12 Q Did you look and see if there was anything in it?

13 A Just check and make sure that there was some kind of
14 suds or liquid in the bottle and it was -- appeared to be a
15 -- appeared to be a fresh and not days old.

16 Q And then did you put it back in the vehicle?

17 A In the approximate location.

18 Q Did you put it in the exact same spot?

19 A No, I -- I mean, there's --

20 Q Turned the right way?

21 A It might not have been exactly the way it was turned in
22 different photographs, but it was placed in the approximate
23 location.

24 Q Did you -- do you carry a case of Red Stripe in your
25 vehicle to plant on different scenes typically?

1 A I do not carry any.

2 Q Have you ever planted any beer cans on anybody?

3 A No.

4 Q Beer bottles?

5 A No, sir.

6 Q Did you do it in this case?

7 A No, sir.

8 Q Have you ever gotten fingerprints from a beer bottle
9 before?

10 A I have never.

11 MR. BLACK: Beg the Court's indulgence.

12 THE COURT: Sure.

13 MR. BLACK: I've got no further questions.

14 THE COURT: Okay. Is that going to be withdrawn from
15 identification?

16 MR. BLACK: It is, Your Honor.

17 THE COURT: Any recross, Mr. Garrett?

18 MR. GARRETT: I do, Your Honor.

19 RECROSS-EXAMINATION

20 BY MR. GARRETT:

21 Q I'm not suggesting, sir, that you put a Red Stripe
22 bottle in the truck. But can you identify that? Is that --
23 can you tell the jury what that is?

24 A It appears to be a book bag.

25 MR. BLACK: Judge --

1 MR. GARRETT: I'm sorry. Let me let him -- I
2 apologize, Your Honor.

3 Q And what did you say that was?

4 A It appeared to be some kind of satchel or book bag.

5 Q Is that the satchel or book bag you said you took a
6 peek in?

7 A It appears -- appears to be.

8 Q That bag -- every one of the crevasses is opened; is
9 that correct?

10 A In these pictures they are.

11 Q When you -- when you looked at it how many were open?

12 A I really don't recall. Took a quick glance into an
13 open compartment of the bag. I couldn't even tell you what
14 kind of -- what kind of bottle beer was in it.

15 Q So you don't know whether somebody opened it before you
16 looked into it?

17 A That's correct. I mean, I don't -- I don't know if it
18 was inspected before I took a peek or not.

19 Q Who else would have inspected it?

20 A It could have been -- I mean, I have no idea.

21 MR. GARRETT: Mark these, please.

22 (Whereupon, Defendant's Exhibit No. 6 was marked for
23 identification.)

24 Q And is that an accurate reflection of the bag in the
25 backseat of the vehicle?

1 A It appears to be.

2 MR. GARRETT: Move to introduce.

3 MR. BLACK: No objection.

4 THE COURT: Without objection, No. 6 for the Defense
5 into evidence.

6 (Whereupon, Defendant's Exhibit No. 6 was admitted into
7 evidence.)

8 MR. GARRETT: May I publish?

9 THE COURT: Certainly.

10 MR. GARRETT: Beg the Court's indulgence.

11 THE COURT: Sure.

12 MR. GARRETT: No further questions. Thank you, Your
13 Honor. Thank you, Officer.

14 THE COURT: Okay. Thank you, sir. You can step down.

15 THE WITNESS: Thank you.

16 (Whereupon, the witness stepped down from the witness
17 stand.)

18 THE COURT: Solicitor, do we have a witness that can
19 get us up to the one o'clock hour?

20 MR. BLACK: Yes, sir, Your Honor. The State calls Dr.
21 Cathcart. John Cathcart.

22 DR. JOHN CATHCART, having first
23 been duly sworn, testified as follows:

24 MR. GARRETT: Your Honor, we'll stipulate
25 qualifications to our esteemed witness.

1 THE COURT: He is an expert. He's a doctor of some
2 sort. He's an expert in what area?

3 MR. BLACK: Orthopedics.

4 THE COURT: Orthopedics?

5 MR. BLACK: Yes, sir.

6 THE COURT: Okay. Let me just give a quick explanation
7 to the jury.

8 Mr. Foreman, ladies and gentlemen of the jury,
9 typically witnesses are only allowed to testify as to what
10 they have seen, what they have heard, what they have
11 smelled. That sort of thing. We have one exception to that
12 rule when we have witnesses who by virtue of training,
13 experience, education are deemed to be an expert in a
14 particular field and they can not only testify as to what
15 they saw or heard, smelled and the like, but they can also
16 render certain opinions. I am finding Dr. Cathcart to be an
17 expert in the area of orthopedics, and he will be entitled
18 to render certain opinions, I assume, on issues in this
19 case.

20 Now, the fact that I have just declared Dr. Cathcart to
21 be an expert does not automatically mean you have to believe
22 what he says. You give it the weight and value of his
23 testimony as you would with any other witnesses who have or
24 will testify in this case. Okay?

25 With that said, Solicitor, you want to proceed?

1 MR. BLACK: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. BLACK:

4 Q Dr. Cathcart, can you just introduce yourself to the
5 jury briefly.

6 A Yeah. My name is John Harris Cathcart, III. I grew up
7 in Gaffney, South Carolina. I've been in Greenwood for 22
8 years. My undergraduate degree at the Citadel. Went to the
9 Medical University of South Carolina. Did my residence in
10 Atlanta, Georgia, Georgia Baptist, and I did a fellowship at
11 the Houston Clinic in Columbus, Georgia. I'm board
12 certified in orthopedic surgery, which is taking care of the
13 musculoskeletal system, bones, muscles, joints. And my
14 fellow ship was in sports medicine, so I do a lot of sports
15 related activities also. I've been practicing here for 22
16 years, as I stated.

17 Q Okay. And since you've already been qualified as an
18 expert, Doctor, did you treat the -- one of the individuals
19 in this case by the name of Mr. Matthew Sanders?

20 A Yes, sir. I did.

21 Q And what was your involvement in treating Mr. Sanders?

22 A We -- I'm a member of an eight man group now and what
23 we do is we take call at the hospital. So on a certain
24 night or a weekend I'm on call to cover the emergency room,
25 or consults on the floor depending on what happens.

1 Anything to do with the musculoskeletal system. At that
2 time this patient that you refer to was involved in a
3 trauma. A motor vehicle accident. Came to the emergency
4 room. He was evaluated by emergency room staff, and at the
5 time he was noted to have a fracture of his femur. I
6 believe it was his left femur. And since I was on call that
7 night, the person that gets called and I'm asked to come
8 down there and evaluate him and that's what I did.

9 Q After your evaluation did you end up performing the
10 surgery on Mr. Sanders?

11 A Yes, sir. He came in. And so, when you're involved --
12 he was involved in a -- really what we considered a high
13 speed trauma that can injure more than one thing. And so,
14 you injure a long bone like the femur, it's the strongest
15 bone in the body, sometimes there can be associated
16 injuries. So the trauma service admitted him. We did not
17 operate on him right away. We waited until the next day to
18 make sure he was stable enough for me to do that. And so,
19 the next day I did operate him.

20 Q And just -- can you show the jury where the femur --
21 where his injury was? Can you kind of describe that and
22 kind of point it out?

23 A You want me to stand up and point it out or --

24 Q If you don't mind.

25 (Whereupon, the witness stepped down from the witness

1 stand.)

2 A So the femur --

3 Q And, Doctor, you might need to speak up for the court
4 reporter to take everything down. Okay?

5 A So the femur is between the knee and hip. Okay? The
6 hip joint and the knee. It's the longest bone in the body.
7 Strongest bone in the body. It's very hard to break. The
8 most common injuries happen to people under the age of 30 in
9 the accidents like we're talking about. Car wrecks,
10 motorcycle wrecks, airplane wrecks are the main common cause
11 for that. And it happens to people over 60. When you're
12 over 60 your bones get weaker. You twist, you step wrong,
13 you fall. You can break your femur in that situation, too.
14 That's a lower impact type injury. But it's this bone from
15 here to here. It's the main weight-bearing bone. Hardest
16 bone in the body.

17 Q And the surgery for Mr. Sanders, I mean, how did it go?
18 Did it go well?

19 A Yes, sir. It was difficult, but went well. We placed
20 a metal rod in his leg. The bone is hollow. We make an
21 incision up here toward the hip, and we start up here at the
22 point where you feel this bone sticking right here. This is
23 your trochanter. This point here. You make a hole in that
24 bone. You put a guided wire across the fracture, and his
25 fracture was very comminuted, which means there's multiple

1 pieces across. It goes down to the knee and you place the
2 rod from here all the way down to the knee. Two screws
3 across this way. Two screws across this way to keep it from
4 rotating. And that's what we did.

5 Q And this particular case, the surgery, did it go well?

6 A Yes, sir. It went well.

7 MR. BLACK: Okay. You can step back up there. Thank
8 you.

9 (Whereupon, the witness returns to the witness stand.)

10 Q Doctor, what is the recovery time on an injury like
11 that to recover from the surgery?

12 A It depends on the -- the type of fracture that occurs.
13 Like I said, high energy versus low energy. This is a high
14 energy injury. Sometimes these injuries can be open -- a
15 bone pokes through the skin. That's called an open
16 fracture. He did not have that. Those are longer to get
17 over. So in this situation he had a fracture that had --
18 fracture means a break. Multiple pieces that I have to mend
19 together. And it takes a minimum of about three months for
20 that to heal in a healthy person, which he was. But it
21 takes really a year to fully get over it.

22 Q And while the three months of recovery, are they -- are
23 they walking around, I guess, with assistance of crutches or
24 something like that?

25 A Well, at first -- you know, everybody does little

1 things different. But the way we do it is that the first
2 eight weeks they're on crutches. They're what we call
3 partial weight-bearing. They don't -- they can stand on it
4 when they get up but they can't put all their weight when
5 they walk. And then after the first eight weeks they can
6 start coming off their crutches. And really by three months
7 things hopefully are solid enough that they can put the full
8 weight without any restrictions.

9 Q So walking normal, how long would that take?

10 A Well, normal is a good question. I mean, normal is --
11 depends on whether you're talking about with a limp or not
12 with a limp. Sometimes that can take six months or longer
13 to walk with an abnormal gait. That's why I said it takes
14 about a year to fully get over it.

15 Q And playing sports, in your opinion, it would be at
16 least a year?

17 A For a football player, we can talk about that. So it
18 would take a year for a football player to be cleared to
19 play football again, because it -- even though it may be
20 healed, it has to mature. It takes time to really get
21 solid. And so, we would not let them play football for at
22 least a year.

23 Q What about down the line? You know, when this
24 individual, Mr. Sanders, gets older. Is it susceptible to
25 arthritis or other types of injuries or --

1 A Well, the hip and the knee joints are the two joints on
2 each side of this fracture. This break. They can be
3 involved in the accident about 30 percent of the time
4 actually. So we examine the knee when they're asleep to
5 make sure they don't have a ligamentous injury or some other
6 injury, which I did not find on him. The hip joint also can
7 be involved, and he seemed to be okay from that standpoint.
8 So even as bad -- as bad as this kind of break of the long
9 bone is, his joints appeared to be spared. So that's a good
10 thing. So most times those joints can do okay without
11 residual injury.

12 However, about 30 percent of people have some residual
13 affect from this injury for the rest of their life and it
14 can be -- it can be subjective, which means they think it's
15 in their brain. You know, that the leg is longer, shorter,
16 not as strong. Studies show that actually -- and I looked
17 at this -- stopped and looked at this again because I knew I
18 was coming. It's about 30 percent of people do have some
19 residual weakness in that leg that can be longstanding. So
20 if those things -- those two type things happen it can
21 affect other parts of your body, like your back. If you
22 walk abnormally your back can get out of whack. It's not --
23 it's not a medical term, but whack is -- you know, I'm not
24 trying to be funny but that's true, so...

25 Q And these -- and these can affect him as he gets older;

1 is that right?

2 A That's correct.

3 MR. BLACK: I don't have any further questions. Thank
4 you for coming in today.

5 THE COURT: Cross-examination?

6 MR. GARRETT: Thank you.

7 CROSS-EXAMINATION

8 BY MR. GARRETT:

9 Q Doctor, thank you for coming today. We'll try to get
10 you out of here as quickly as we can. I know you've got a
11 very busy schedule.

12 A Yes, sir.

13 Q I've got just a couple of notes that I submit to you
14 that I've taken out of his note that you provided to us.

15 A Yes, sir.

16 Q Could you look at those and see if those are your
17 standard documents or standard records for Mr. Sanders, the
18 passenger in the red truck in this case?

19 A This first one you gave me, the typing is the consult
20 that I did. Okay? So that is mine. The second sheet you
21 gave me is a Behavioral Health Center note that I don't know
22 anything about.

23 Q Would it be part of your file? I mean, it was provided
24 to us as part of -- were you his treating physician?

25 A I was the consultant physician. I was not -- the

1 trauma service, Dr. Brant Paramore admitted him. So he was
2 the so-called attending. The main person in charge. After
3 I operated on him and then they felt that he was okay, the I
4 ended up taking -- taking care of him. I don't see a date
5 on this second sheet. Is there a date on it?

6 Q It's the 17th, I believe. There's several documents
7 tied to that. Let's see. I think this is the -- if that --
8 if that helps you. That's the front page to that. And if
9 that's not your --

10 A Yes, sir. It's the same -- it's just like the notes --
11 he was -- you know, he was extremely anxious when he -- when
12 he was in the hospital because of obviously the loss of a
13 friend. But he also had some things that were prior to this
14 admission. And so, we consulted -- our case management
15 helped -- come to look at him and help him, as far as
16 behavioral health. And I guess this -- I was not aware --
17 I'm aware that behavior health was taking -- you know, case
18 management consult on him, but I did not see these pages.

19 Q All right. And let's let them -- we can do that with
20 them. Let me just ask you on this side over here.

21 A Yes, sir.

22 Q That was a consult with you?

23 A Correct.

24 Q And tell us about that. Why was that --

25 A Well, as I mentioned that I was in the -- this is what

1 -- this is a standard form, or dictation will do, if we're
2 asked to see a patient in the hospital --

3 Q Yes, sir.

4 A -- whether it's in the emergency room or on the floor.
5 When I examine the patient this is what I dictate as my
6 record.

7 Q What did you record there? Can you -- if you recall,
8 can you say why that was important?

9 A Why it was important?

10 Q Yes.

11 A The whole page or what you have highlighted?

12 Q Just the page. If you can kind of give us an idea of
13 what it was for and what the part that I've highlighted.

14 A So as I -- as I stated, when I see a patient and
15 examine him I do a record of examination and why I was asked
16 to see him. And so, the way I was trained in Columbus,
17 Georgia that what, how, when and where is this we write, or
18 how it happened, where it happened, what went on. And then
19 I did a history of present illness. Basically what I
20 stated, "The patient is an 18-year-old male passenger. He
21 says he was restrained and there's concern that he's not
22 restrained." You highlighted that. "Being involved in a
23 high speed head-on MVA where the driver was killed. He was
24 brought to the emergency room where he showed obvious
25 deformity of his left femur. This was really the only

1 complaint he had. He was on a backboard and cervical spine
2 precautions which we do with anybody that's had a severe
3 wreck and we're not sure about the status --

4 THE COURT: Doctor, can you slow down just a little
5 bit. Even though she's good. The court reporter is very
6 good.

7 THE WITNESS: Yes, sir.

8 THE COURT: So if you can just slow down just a little
9 bit that would be of help to her. Thank you.

10 THE WITNESS: Absolutely. Okay. Do I need to go back?
11 No? Okay.

12 A I said, "That this was really the only complaint he
13 had." And I said, "He was on a backboard and cervical spine
14 precautions." So he had a brace around his neck and he was
15 on a rigid board in chase he had hurt his back or his neck.
16 I thought -- "but he appeared to be stable. And so,
17 orthopedics was consulted." So that's basically just the
18 prelude to what introduction of my exam.

19 Q Okay. And you haven't read the SLED report back on his
20 blood or anything like that to know whether or not on that
21 night, on that occasion whether or not he was -- he had
22 drugs in his system?

23 A I saw his lab work, but I didn't see it recently. I
24 can't remember that.

25 Q All right. But you haven't even -- you haven't read

1 the SLED report, did you?

2 A No, sir.

3 MR. GARRETT: All right. Thank you. That's all I
4 have.

5 THE COURT: Okay. Anything on redirect, Solicitor?

6 MR. BLACK: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. BLACK:

9 Q Doctor, you were at the hospital, right? You saw Mr.
10 Sanders at the hospital?

11 A I saw him at the hospital. I can't remember if I was
12 at the hospital when they called me.

13 Q But you never were out there on the scene that night?

14 A No, sir.

15 MR. BLACK: No further questions.

16 THE COURT: Thank you, Doctor. You can step down and
17 you are excused from the courthouse.

18 THE WITNESS: Thank you.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 THE COURT: Okay. It's about a quarter to 1:00. I
22 think this would be a good time to break for lunch.

23 Mr. Foreman, ladies and gentlemen of the jury, we're
24 going to start back at 2:15. So that'll give us an hour and
25 a half to have lunch. Again, I'll remind you no discussion

1 complaint he had. He was on a backboard and cervical spine
2 precautions which we do with anybody that's had a severe
3 wreck and we're not sure about the status --

4 THE COURT: Doctor, can you slow down just a little
5 bit. Even though she's good. The court reporter is very
6 good.

7 THE WITNESS: Yes, sir.

8 THE COURT: So if you can just slow down just a little
9 bit that would be of help to her. Thank you.

10 THE WITNESS: Absolutely. Okay. Do I need to go back?
11 No? Okay.

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13 had." And I said, "He was on a backboard and cervical spine
14 precautions." So he had a brace around his neck and he was
15 on a rigid board in case he had hurt his back or his neck.
16 I thought -- "but he appeared to be stable. And so,
17 orthopedics was consulted." So that's basically just the
18 prelude to what introduction of my exam.

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20 blood or anything like that to know whether or not on that
21 night, on that occasion whether or not he was -- he had
22 drugs in his system?

23 A I saw his lab work, but I didn't see it recently. I
24 can't remember that.

25 Q All right. But you haven't even -- you haven't read

1 the SLED report, did you?

2 A No, sir.

3 MR. GARRETT: All right. Thank you. That's all I
4 have.

5 THE COURT: Okay. Anything on redirect, Solicitor?

6 MR. BLACK: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. BLACK:

9 Q Doctor, you were at the hospital, right? You saw Mr.
10 Sanders at the hospital?

11 A I saw him at the hospital. I can't remember if I was
12 at the hospital when they called me.

13 Q But you never were out there on the scene that night?

14 A No, sir.

15 MR. BLACK: No further questions.

16 THE COURT: Thank you, Doctor. You can step down and
17 you are excused from the courthouse.

18 THE WITNESS: Thank you.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 THE COURT: Okay. It's about a quarter to 1:00. I
22 think this would be a good time to break for lunch.

23 Mr. Foreman, ladies and gentlemen of the jury, we're
24 going to start back at 2:15. So that'll give us an hour and
25 a half to have lunch. Again, I'll remind you no discussion

1 among yourselves about anything related to this case.
2 Anybody that you may come into contact with over lunch, no
3 discussion with them about this case.

4 Also, if you're out in public, say at a local
5 restaurant, leave your juror button visible. The reason for
6 that is there may be some -- we have a lot of family members
7 and friends on both sides, as you can see. There maybe be
8 some of these folks, or maybe some of the lawyers, are at a,
9 say, local restaurant and you're there. They don't
10 recognize you being on the jury, but if you had that juror
11 button visible then they'll know not to be talking about the
12 case, or at least not to be talking about the case where you
13 can hear what they're saying. Okay? So just do that for me
14 and have a good -- good lunch and we'll see you back at
15 2:15.

16 (Whereupon, the jury exited the courtroom at 12:44
17 p.m.)

18 THE COURT: We'll be at recess until 2:15. Have a good
19 lunch.

20 (Whereupon, a lunch recess was taken from 12:44 p.m. to
21 2:15 p.m.)

22 THE COURT: Are we ready for the jury?

23 MR. BLACK: Yes, sir, Your Honor.

24 THE COURT: Bring the jury out, please.

25 (Whereupon, the jury entered the courtroom at 2:18

1 p.m.)

2 THE COURT: Let the record reflect the jury is back in
3 the courtroom. Solicitor, you may proceed.

4 MR. BLACK: Thank you, Your Honor. The State recalls
5 Brunson Smith to the stand.

6 THE COURT: Come around, Trooper Smith. I remind you
7 you're still under oath.

8 (Whereupon, Brunson Smith is recalled to the witness
9 stand.)

10 MR. BLACK: Your Honor, may I approach the witness?

11 THE COURT: You sure can.

12 (Whereupon, Court's Exhibit No. 7 was marked for
13 identification.)

14 DIRECT EXAMINATION

15 BY MR. BLACK:

16 Q I'm showing you what's been marked as Court's No. 4.
17 Do you recognize that, Trooper?

18 A Yes, I do.

19 Q And what is that document?

20 A It is a search warrant for Mr. Rowell's medical
21 records.

22 Q And when was that -- when did you get that?

23 A On November the 19th. I went to a Greenville County
24 magistrate and obtained a search warrant for the medical
25 records, any kind of tests that were done, and earlier when

1 he first arrived at the hospital.

2 Q And did you receive what you were looking for that day?

3 A I did.

4 Q And then once you got those -- once you got that record
5 did you -- what did you do after that?

6 A Listed it -- those medical records were listed in the
7 case file.

8 Q And you made that a part of your overall case file?

9 A I did.

10 THE COURT: What number did you say that was?

11 MR. BLACK: Court's No. 7.

12 THE COURT: Okay, okay. I thought you said 4 and I had
13 4 for another document.

14 MR. BLACK: I apologize. I might have, Your Honor.

15 THE COURT: That's all right.

16 MR. BLACK: Court's 7.

17 THE COURT: No problem.

18 MR. BLACK: That's all the questions I have for you.

19 Thank you, Trooper.

20 THE COURT: Anything in cross-examination on recall?

21 MR. GARRETT: Yes, briefly.

22 CROSS-EXAMINATION

23 BY MR. GARRETT:

24 Q In order to get that search warrant did you file a
25 sworn affidavit?

1 A I did.

2 Q Do you have that? Let me see if I can find that. Can
3 I get you to look for reasons for affiant's belief that the
4 property sought is on the subject premises? Could you go to
5 the first paragraph and read the last sentence for that
6 search warrant.

7 A Yes. There were multiple containers of beer,
8 parenthesis, Red Stripe in the passenger compartment of the
9 subject's vehicle.

10 Q Is that true?

11 A There was only one inside the vehicle at the time.

12 Q In this case then there was false information used to
13 get this search warrant?

14 A There was more of a typo or an error that there were
15 multiple opened containers at the scene or around the scene.

16 Q That's not what you said, sir, to the Court. In your
17 affidavit to the Court to get that warrant it was not true
18 that there were multiple containers of Red Stripe beer in
19 the passenger compartment of the car. Isn't that true?

20 A That's correct. It was just the -- the one Red Stripe
21 container.

22 MR. GARRETT: Your Honor, we have a matter of law.

23 THE COURT: All right. Mr. Foreman, ladies and
24 gentlemen of the jury, I have an issue to take up with the
25 lawyers. If you'll go to the jury room again. Don't begin

1 any discussions about this case, and hopefully we'll get you
2 back out shortly.

3 (Whereupon, the jury exited the courtroom at 2:22 p.m.)

4 THE COURT: Okay, Mr. Garrett.

5 MR. GARRETT: Your Honor, it is sacrosanct that these
6 affidavits, in order to give a judge probably cause, they
7 must be truthful. If they're not truthful, then the whole
8 purpose for which the warrant is to be issued is invalid.
9 The search warrant is. I'd ask the Court to exclude any
10 evidence that came into this case as a result of that false
11 affidavit.

12 THE COURT: And the position of the State?

13 MR. BLACK: Judge, I don't think that there's any
14 intent on the Trooper to mislead the magistrate that signed
15 the search warrant in this particular case. There's been
16 testimony about this particular Red Stripe -- this infamous
17 Red Stripe that we've talked about, and there's also been
18 mention of other containers of beer in the vehicle that were
19 -- I think that were still closed. So we don't think this
20 rises to the level of dismissing anything to do with that
21 medical record at all.

22 THE COURT: All right. Well, I mean, the search
23 warrant was exclusively for the medical records, correct?

24 MR. BLACK: That is correct.

25 THE COURT: And is it your intent to put into evidence

1 some or all of the medical records through medical
2 personnel?

3 MR. BLACK: That is -- that is correct. We don't plan
4 on getting into any of the results with Trooper Smith. We
5 plan on getting into that with hospital personnel. Yes,
6 sir. Your Honor.

7 THE COURT: Since they're not attempting to get the
8 medical records in through this Trooper, notwithstanding the
9 fact that the affidavit may, in fact, be false, your relief
10 to exclude the medical records because of the search warrant
11 affidavit, how would that prevent the State from getting the
12 medical records in through some other source, i.e. medical
13 personnel, hospital personnel?

14 MR. GARRETT: Your Honor, we are protected under the
15 law, under HIPPA and a host of other things, except in DUI
16 cases where they follow the law. They submit a correct, a
17 lawful, a truthful affidavit that convinces a judge that
18 they have reason to believe, or probable cause to believe
19 that criminal activity occurred. And in this case they have
20 purposefully, I guess -- you know, it's clear there was not
21 one Red Stripe -- I'm sorry. That's just the way the
22 evidence is and I can't fix that for anybody. And so, they
23 gave false information to a judge, Your Honor. You know,
24 it's kind of a gatekeeping thing that we don't let stuff in
25 through that arrest warrant.

1 Now, here's the other thing. And I will tell the
2 Court, I know where we're going with it. The 21 point
3 something blow that they're trying to -- or blood test, came
4 in as a result of the medical records, and they had that.
5 They got that. And then they used that to get the arrest
6 warrant. They used the -- if you'll look at the arrest
7 warrant, they've got the 21.9 or .219 attached to the arrest
8 warrant. So, you know, they've got false information to get
9 the medical information, then to get the arrest warrant for
10 the charge.

11 THE COURT: But now, the relief that you're seeking,
12 Mr. Garrett, is to exclude anything obtained pursuant to
13 this search warrant.

14 MR. GARRETT: That's right. Which is --

15 THE COURT: Exclude it into evidence.

16 MR. GARRETT: Which is all the medical records.

17 THE COURT: Right, but they can get the medical records
18 in through medical personnel. So if I exclude it through
19 this witness, which he couldn't get -- I mean, he couldn't
20 be the witness to get the medical records in, but they can
21 get it in through another source. Invalidating this search
22 warrant and anything resulting from this search warrant, how
23 does that help you, because they're going to try to get the
24 medical records in through the hospital people.

25 MR. GARRETT: I think the 21 should be excluded, Judge,

1 because it was obtained illegally.

2 THE COURT: Wait a minute. The '21 is a hospital record

3 --

4 MR. GARRETT: That was obtained illegally, if my client
5 was entitled to protection of the law. It was obtained
6 illegally because of a false affidavit.

7 MR. BLACK: Judge, I don't think saying --

8 MR. GARRETT: I'm not arguing with you, Your Honor.

9 I'm --

10 THE COURT: I know you're -- no, you're doing what you
11 need to do. I'm just -- I'm just at a loss where -- I don't
12 see how I can exclude -- assuming proper foundation, proper
13 witness, et cetera, et cetera is made, exclude the medical
14 records from coming in if they bring in the hospital
15 personnel who had nothing to do with this search warrant and
16 nothing to do with the affidavit. That's where -- that's
17 where I'm confused.

18 MR. BLACK: And I agree with Your Honor's point. Also,
19 Judge, there's enough probable cause to have gotten this
20 search warrant based on what he observed on the scene. If
21 it's one Red Stripe, versus two Red Stripe, versus three Red
22 Stripe, all of this plays into the probable cause for law
23 enforcement to end up getting the search warrants. So I
24 think it's a little bit disingenuous to argue that the other
25 -- you know, he put -- he said there's one Red Stripe, but

1 he put multiple in the search warrant to say they've got to
2 keep all that out, I think that's disingenuous on the
3 Defense's part. But I tend to agree with your analysis of
4 it, Your Honor.

5 THE COURT: I'm going to deny your motion. And if the
6 State can produce proper witnesses foundation to get the
7 medical records in through another source, then it's
8 immaterial to me that this affidavit is -- was -- is claimed
9 by the Defense to be false. I'm going to deny your motion.

10 MR. GARRETT: Thank you, Your Honor.

11 THE COURT: Thank you.

12 MR. BLACK: Thank you, Your Honor.

13 THE COURT: And I don't -- I don't consider strong
14 advocacy to be argument with the Court. Okay?

15 MR. GARRETT: Yes, Your Honor. Yes, Honor. Thank you.

16 THE COURT: Bring them out, please.

17 (Whereupon, the jury entered the courtroom at 2:29
18 p.m.)

19 THE COURT: Let the record reflect the jury's back in
20 the courtroom and are we --

21 MR. GARRETT: We were still with me, Your Honor.

22 THE COURT: Oh, still with you. Okay.

23 MR. GARRETT: Thank you.

24 Resume Recross Examination

25 Q And so, the information you provided to the judge under

1 oath was not accurate?

2 A It was not accurate in that portion.

3 Q It was not true?

4 A It was just a misunderstanding on the --

5 Q Misunderstanding by whom?

6 A I made a clerical error when typing the information in.

7 Q Clerical error?

8 A Administrative error.

9 Q Administrative error?

10 A Uh-huh.

11 Q And you're in charge of this whole investigation?

12 A Yes, I'm the primary investigating officer.

13 Q And you told the Judge something that weren't true?

14 A Not intentionally.

15 Q But ultimately you did?

16 A I put multiple containers of Red Stripe when there was

17 only one in the vehicle.

18 Q Have you contacted -- are you going to leave here and

19 contact the Judge and let him know that you put in false

20 information, or what you call mistaken information into your

21 affidavit?

22 A I don't plan on contacting anyone.

23 Q So you're going to keep it to yourself? Is that a yes?

24 A I'm not going to contact the judge.

25 MR. GARRETT: Thank you. No further questions.

1 THE COURT: Does the State have any redirect on recall?

2 MR. BLACK: No, sir, Your Honor.

3 THE COURT: You may step down, sir. Thank you.

4 (Whereupon, the witness stepped down from the witness
5 stand.)

6 THE COURT: Solicitor, next witness?

7 MR. DOWTIN: State calls Corporal Cody Bishop, Your
8 Honor.

9 THE COURT: Corporal who?

10 MR. DOWTIN: Cody Bishop.

11 CODY BISHOP, having first been duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DOWTIN:

15 Q Trooper, could you please introduce yourself to the
16 jury.

17 A Yes, sir. My name's William Cody Bishop. I'm employed
18 with the Department of Public Safety, South Carolina Highway
19 Patrol.

20 Q About how long have you been working with the Highway
21 Patrol?

22 A About nine and a half years.

23 Q How about before Highway Patrol?

24 A Greenwood County Sheriff's Office. Total law
25 enforcement experience about 13 years.

1 Q Can you tell the jury a little bit about your training
2 in law enforcement?

3 A Yes. I attended the South Carolina Criminal Justice
4 Academy, and I went back to South Carolina Criminal Justice
5 Academy for South Carolina Highway Patrol, Special Basic,
6 multiple trainings. Basic collision investigation, DUI type
7 trainings.

8 Q How about some of your day-to-day responsibilities with
9 Highway Patrol?

10 A Day-to-day responsibility, as far as the roads, just to
11 investigate collisions throughout the counties in which I am
12 responsible for. You know, Abbeville and Greenwood
13 primarily. Also goes in Newberry, Laurens, Edgefield,
14 McCormick and Saluda. Also observe and stop vehicles for
15 traffic violations. Administratively I'm responsible for
16 the guys on my shift's wreck reports, checking and making
17 sure things are in a timely manner, court stuff.

18 Q Where's your troop headquarters located at?

19 A It's on the 225 Bypass behind -- kind of parallel to
20 the Food Lion.

21 Q Trooper Bishop, were you working back on November 15th,
22 2014?

23 A Yes, sir.

24 Q And do you recall responding to a collision that
25 resulted in a fatality that evening?

1 A Yes, sir.

2 Q Can you tell us exactly where that collision occurred?

3 A Collision happened on South Carolina Highway 225 just
4 behind the Hot Spot kind of between US 221 South, which
5 would be the fairgrounds, and 25 South where the Hot Spot is
6 located.

7 Q And just to be clear, that's here in Greenwood, South
8 Carolina?

9 A Yes, sir. Greenwood, South Carolina.

10 Q Can you describe that area of 225 as far as the road?
11 I mean, are we talking about a straightaway?

12 A It's primarily straight. It's a two-lane road. It
13 does have a curve, a right-hand curve, just prior to getting
14 to US 25 if you're traveling southbound. A little left-hand
15 curve if you're traveling northbound towards 221.

16 Q And how about the speed limit over there?

17 A The speed limit is 55.

18 Q Do you recall approximately what time you arrived on
19 scene that evening?

20 A Yes, sir. It was shortly after 7:30 p.m. I --

21 Q And when you got on scene -- excuse me. Excuse me.

22 A I don't remember the exact time, but it was shortly
23 after 7:30 p.m.

24 Q And when you got on scene what all did you observe?

25 A I observed two vehicles with extensive front-end

1 damage, kind of partially off the roadway and in the
2 roadway. Debris all in the roadway. Also noticed that
3 there was an occupant in each vehicle that appeared to be
4 trapped inside. There was beer cans around the immediate
5 area.

6 Q Immediate area of -- by both trucks or by one vehicle
7 or all over the scene, or what are we talking about?

8 A There was some beer cans located beside the Chevrolet
9 -- blue Chevrolet pickup truck. There was also some -- a
10 Four Loko can located in the general vicinity of the red
11 truck.

12 Q And going back -- can you give a little more detail, if
13 you can recall, about the two vehicles? I mean, one was
14 red. Do you recall the color of the other truck?

15 A Yes, sir. It was blue. They were both Chevrolet
16 pickup trucks. One was an older model truck. I can't
17 remember the exact year that it was. And the other truck --
18 the blue truck seemed to be a newer model truck. Both of
19 them with extensive damage.

20 MR. DOWTIN: Beg the Court's indulgence.

21 THE COURT: Sure. Take your time.

22 (Whereupon, State's Exhibit Nos. 7 through 22 marked
23 for identification.)

24 Q Trooper, I kind of cut you off earlier. Can you
25 describe the scene a little more as far as were you the

1 first person there? Were there other people there; law
2 enforcement, medical personnel?

3 A Yes, sir. I was not the first person there. There was
4 lots of emergency personnel, Greenwood County Sheriff's
5 Department had units on scene, lots of volunteer
6 firefighters on scene. And, of course, myself and other
7 members of the Highway Patrol.

8 Q And who was the lead officer that night for Highway
9 Patrol specifically?

10 A It would be Trooper Keith Brunson Smith.

11 Q How do you all determine that?

12 A It's really not a per se exact -- what's the word that
13 I'm looking for? Reason why he was the primary. We kind of
14 do it in rotations as far as fatal collision are concerned.
15 The other guy that was working out shift that night had just
16 worked a fatal collision, so that meant that it was -- it
17 was Trooper Smith's time to work this collision.

18 Q Trooper, I'm going to show you what's been marked as
19 State's Exhibits 7 through 22 for identification purposes.
20 If you could, without going into detail, just tell me if you
21 know what these pictures are.

22 A Yes, sir. The first picture I see is a picture of the
23 truck that Mr. Cockrell was driving.

24 Q And again, I'm going to ask you to go into detail in a
25 minute. Can you just scan through and tell me if you

1 recognize the pictures?

2 A Yes, sir.

3 THE COURT: What numbers are those, Solicitor?

4 MR. DOWTIN: They are State's 7 through 22, Your Honor,
5 for ID purposes.

6 THE COURT: 7 through 22, okay.

7 A Yes, sir. I recognize the pictures.

8 Q How do you recognize these pictures?

9 A Because I took these pictures.

10 Q You took the pictures of the night you responded to the
11 scene?

12 A Yes, sir.

13 Q And they're a fair and accurate representation of what
14 you observed that evening?

15 A Yes, sir.

16 Q Do you recall approximately how many photos you took?

17 A It was approximately 89.

18 MR. DOWTIN: Your Honor, at this time State offers
19 State's 7 through 22 into evidence, and permission to
20 publish to the jury.

21 THE COURT: What says the Defense?

22 MR. GARRETT: I have to see the numbers. I think there
23 were 3 Judge, that we would renew our prior objection. Our
24 prior objection as to 22, prior objection as to 21, prior
25 objection as to 18, prior objection as to 12 through

1 -- 7 through 12.

2 THE COURT: So you are renewing a prior objection.

3 Could you give me those numbers again?

4 MR. HENDERSON: Your Honor, 7 through 12, 18, 21 and

5 22.

6 THE COURT: All right. That is related to a prior
7 objection that you have made?

8 MR. GARRETT: Same prior objection, Your Honor.

9 THE COURT: Since I haven't seen -- since I have not
10 seen the pictures then I don't know if I can -- but I will
11 accept that and allow them into evidence for the State.

12 MR. GARRETT: Thank you, Your Honor.

13 (Whereupon, State's Exhibit Nos. 7 through 22 were
14 admitted into evidence.)

15 Q Trooper, I want to show you what's been marked as
16 State's Exhibit 7. Can you see it?

17 A Yes, sir.

18 THE COURT: If you need to get down, you can do that if
19 you need to.

20 THE WITNESS: That would be great.

21 THE COURT: Just be sure you speak loud since you're
22 away from the microphone.

23 THE WITNESS: Yes, sir.

24 (Whereupon, the witness stepped down from the witness
25 stand.)

1 THE COURT: And there was a laser pointer, if you want
2 to use that, too. Mr. Garrett was kind enough to offer
3 that. My court reporter says the laser pointer will not
4 show up on a television screen.

5 MR. GARRETT: It won't? Okay.

6 Q Trooper, before we start going through all these
7 photos, can you tell me about this date here at the bottom?
8 Is that an accurate date of when these pictures were taken?

9 A No, sir. That date is incorrect. Obviously I failed
10 to change the date on my camera.

11 Q And picture -- I meant -- I apologize. Trooper, what
12 are we looking at here?

13 A This is pictures of the collision site. This in
14 particular, the red Chevrolet pickup truck, is the truck
15 which Mr. Cockrell was driving the night of the collision.

16 Q And do you recognize these two gentlemen in this photo?

17 A I do.

18 Q And who are they?

19 A It would be -- to the right it would be Deputy John
20 Long and to the left it would be Assistant Coroner Derrick
21 Rash.

22 Q And see right there in front of John Long's feet?

23 A Yes, sir.

24 Q Is there anything important about that mark to you?

25 A Yes, sir. That mark is a braking mark that leads right

1 up to the front tire of that red truck there in that lane of
2 travel.

3 Q And that brake mark is entirely in the victim's lane of
4 travel?

5 A Yes, sir. That's correct.

6 THE COURT: What picture number was that?

7 MR. DOWTIN: State's Exhibit 7, Your Honor.

8 THE COURT: Are you going to go through them in
9 chronological order?

10 MR. DOWTIN: Yes, sir.

11 THE COURT: Or numerical order?

12 MR. DOWTIN: Yes, sir.

13 THE COURT: Very good. Thank you.

14 MR. DOWTIN: You're welcome, Your Honor.

15 Q Trooper Bishop, I'm going to show you what's been
16 marked as State's Exhibit 8. If you could, tell me what
17 we're looking at here.

18 A Again, that's Mr. Cockrell's vehicle which he was
19 traveling on the night of the collision. Heavy debris,
20 heavy front-end damage. And again, the braking marks
21 leading up to the front of that vehicle.

22 Q And what's all that on the ground in front of the
23 victim's truck? That fluid. Do you have any idea?

24 A It would be some type of fluid from one of the trucks,
25 be it radiator fluid.

1 Q I'm going to show you what's been marked as State's
2 Exhibit 9. Can you tell me what this is and why you felt
3 that it was important?

4 A Again, it's the vehicle Mr. Cockrell was driving. It
5 just shows the extent of the damage to the driver's side
6 compartment of Mr. Cockrell's vehicle.

7 Q How about that can down there on the ground?

8 A Yes, sir. That would be a Four Loko can.

9 Q And do you know what a Four Loko is?

10 A It's a beer.

11 Q I'll show you what's been marked as State's Exhibit 10.
12 If you could, tell me the importance of this picture and
13 what we're looking at here.

14 A Again, you're just looking at a different view. That
15 would be the driver's side with the hood up, heavy front-end
16 damage, debris around the vehicle and damage -- extensive
17 damage to the front left quarter panel and the driver's side
18 door.

19 Q And State's 11.

20 A Again, same vehicle driven by Mr. Cockrell. That is a
21 head-on view of the radiator area, hood up, passenger side
22 door open, extensive damage to the driver's side
23 compartment.

24 Q And State's 12, please.

25 A Yes, sir. This would kind of just be a shot of -- or a

1 picture of South Carolina Highway 225 showing the Trooper,
2 emergency personnel on the scene, as well as to the
3 right-hand corner Deputy Long and Deputy Coroner Derrick
4 Rash trying to cover the body.

5 Q How about State's 13?

6 A Same vehicle Mr. Cockrell was driving, damaged, showing
7 braking marks on the roadway. It shows the debris field,
8 other emergency personnel.

9 Q And what's -- what's State's 14 a picture of?

10 A That would be the driver compartment of the other
11 vehicle that was operated by Mr. Rowell. It would be the
12 steering wheel with the airbag deployed, the driver's side
13 seat, with a shoe that's kind of pinned under the brake and
14 the accelerator.

15 Q Talking about right there?

16 A Yes, sir.

17 Q How about State's 15?

18 A This would be Mr. Rowell's vehicle again, the blue
19 Chevrolet. This is extensive damage. Also in the picture
20 you can kind of see that orange cable. That would be the
21 Jaws of Life they utilized to cut the roof off of that
22 vehicle to remove him from -- from the interior.

23 Q Do you know much about the Jaws of Life?

24 A No, sir. I really don't. I know it cuts heavy stuff.

25 Q How about State's 16?

1 A This would be Mr. Rowell's pickup truck. This would be
2 the front-end. This silver portion you kind of see above
3 the tires would be the front bumper. The hood, radiator,
4 and the debris field.

5 Q And State's 17?

6 A This would be the driver's side compartment of Mr.
7 Rowell's vehicle showing extensive damage. And again, this
8 picture was taken after the top was removed by emergency
9 personnel.

10 Q Just focusing on this for a second. When you arrived
11 on scene was the Defendant trapped in the truck --

12 A Yes, sir. He was.

13 Q -- behind the steering wheel?

14 A Yes, sir. He was.

15 Q State's 18.

16 A This is a Four Loko can that I took a picture of that
17 was in the red Chevrolet pickup truck operated by Mr.
18 Cockrell. This -- what we're looking at is kind of by the
19 door pillar and the backseat of the truck.

20 Q Trooper, did you notice the smell of any alcoholic
21 beverage coming from either of the trucks?

22 A Yes, sir. I did.

23 Q Which truck, or trucks?

24 A The blue truck. The blue Chevrolet pickup truck.

25 Q But you did not -- you did not smell any coming from

1 the red truck?

2 A No, sir. I did not.

3 Q State's 19. Can you tell me what we're looking at
4 here?

5 A Yes, sir. This would be Mr. Cockrell with his head
6 against the driver's side door. The debris that you see in
7 his lap would be the dash compartment of that vehicle.

8 Q And I imagine at this point the passenger of that --
9 the red truck had already been assisted?

10 A Yes, sir. I never -- I never had a chance to see the
11 passenger still inside this vehicle. He had already either
12 gotten out himself or been assisted out. Whatever happened
13 before I got there.

14 Q And State's 20.

15 A Again, it's kind of hard. If you look, this is the
16 steering wheel in Mr. Cockrell's car. If you look just left
17 of the steering wheel you'll see his hand, his head and his
18 left arm being up against the driver's side door, and the
19 debris field caved on top of him.

20 Q State's 21. Where exactly was this taken in relation to
21 both of the trucks?

22 A This was taken by the blue truck operated by Mr.
23 Rowell. It was laying on the ground by the blue truck.

24 Q But you can't say for certain whether it was a couple
25 of inches, a foot?

1 A No, sir. I cannot. It was in the immediate vicinity
2 as far as how close to the vehicle. I don't know. But I
3 didn't -- I didn't take pictures from a large distance.

4 Q So this isn't something you took 100 yards from the
5 scene, or 50 yards away, or --

6 A Absolutely not.

7 Q It's something you felt important that you felt was
8 related to the blue truck?

9 A Yes, sir. I tried to photograph any of the cans in
10 which I seen, and that being one that I seen I took a
11 picture of it.

12 Q Because you also took pictures of a couple of cans by
13 the red truck, or one by the red truck and one in the red
14 truck, correct?

15 A That's correct. Yes, sir.

16 Q How about the last one, State's 22. Where was this
17 picture taken?

18 A This is a picture of the backseat of the blue Chevrolet
19 pickup truck. Mr Rowell's truck. It's a Red Stripe beer
20 bottle.

21 Q Did you put that Red Stripe there?

22 A Absolutely not.

23 MR. DOWTIN: You can have a seat.

24 THE WITNESS: Yes, sir.

25 (Whereupon, the witness returned to the witness stand.)

- 1 Q Trooper, do you know what Natural Lite is?
- 2 A Yes, sir.
- 3 Q What is it?
- 4 A It's a beer.
- 5 Q How about Red Stripe?
- 6 A A beer.
- 7 Q Did your office receive any assistance in regards to
- 8 this investigation or did you all handle everything by
- 9 yourself?
- 10 A No, sir. We did receive assistance from the South
- 11 Carolina Highway Patrol's MAIT team who was called to the
- 12 scene that evening.
- 13 Q And what is MAIT?
- 14 A MAIT is an advanced reconstruction team. Has extensive
- 15 training and technology to reconstruct collisions that
- 16 occur.
- 17 Q Trooper, did you have any additional involvement with
- 18 this case?
- 19 A Yes, sir. I did.
- 20 Q What was that involvement?
- 21 A I did the death notification to Mr. Cockrell's mother.
- 22 Q Were you alone when you did that?
- 23 A I was not.
- 24 Q Do you recall approximately how long after you left the
- 25 scene that took place?

1 A It was -- it was very quick. I made one stop prior to
2 going to Mr. Cockrell's mother's house and that was to go by
3 our office there on 225 Bypass to obtain a compassionate
4 guide which we give to people whose been involved in a
5 fatality for kind of further assistance, as far as to coping
6 in the healing process and making arrangements. And then I
7 went straight to her residence.

8 MR. DOWTIN: Beg the Court's indulgence, Your Honor.

9 THE COURT: Sure. Take your time.

10 Q Trooper, was there anybody else in the vehicle with the
11 Defendant?

12 A No, sir.

13 MR. DOWTIN: Please answer any questions Defense
14 counsel might have.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MR. GARRETT:

18 Q Trooper Bishop, thank you for being with us today.

19 A Yes, sir.

20 Q I just want to ask you to look at these. Could I have
21 you step down for just a second --

22 A Yes, sir.

23 Q -- and just ask you a couple questions, if I could.

24 (Whereupon, the witness stepped down from the witness
25 stand.)

1 Q Those real heavy black marks, that's where some truck
2 has driven, maybe a fire truck or whatever, a dually, has
3 driven through the material there. Is that not correct?

4 A Yes, sir. I would probably say that's correct.

5 Q And that's the same -- that's State's Exhibit 13 and
6 the same thing in State's 12? That area?

7 A Yes, sir. I would say that would probably be correct.

8 Q So that's not skidmarks is what I'm asking?

9 A Yes, sir. I don't believe that it is.

10 Q That part's not. Okay. And this Loko, what is -- is
11 it beer?

12 A I'm assuming it's beer. Yes, sir. I mean, I know it's
13 some type of alcoholic beverage. I don't know if it's
14 considered a wine cooler or a beer.

15 Q Do you know whether or not it's five times the alcohol
16 content of a regular beer?

17 A I do not.

18 Q And did you take this out and examine it?

19 A No, sir. I did not.

20 Q Did you -- and you were there taking pictures of it?

21 A Yes, sir.

22 Q So at the time you took a picture of it nobody had
23 taken it out of the vehicle?

24 A Not that I'm aware of.

25 Q I mean, you doubt they'd take it out and then put it

1 back in there?

2 A Not that I seen. No, sir.

3 Q And to your knowledge, was that ever taken out and
4 examined and tagged and put into the -- you know, put into
5 the evidence?

6 A No, sir. Not that I know of.

7 Q Were you there to -- were you there to take the
8 evidence or was that --

9 A No, sir. I wasn't there. I was --

10 Q Taking pictures?

11 A Yes, sir.

12 (Whereupon, the witness returns to the witness stand.)

13 Q Now, is it possible that there was not a beer on that
14 chair?

15 A I'm not sure I understand your question.

16 Q I mean, at any time was that -- was that beer removed
17 from that chair?

18 A Not that I'm aware of.

19 Q And were you there when the -- anybody moved it, or
20 removed it, or checked it, or bagged it, or tagged it, or
21 anything?

22 A No, sir.

23 Q Didn't see anybody do anything like that with it?

24 A No, sir.

25 Q And what about that bag that was in the back of the

1 truck? Do you remember their being a bag in the back of the
2 truck?

3 A No, sir. I do not remember.

4 Q And so, you took that picture but you don't know where
5 it was in relationship to --

6 A I do not recall. No, sir.

7 Q Do you recall there being a grey toolbox, an aluminum
8 toolbox, that was in the back with Mr. Rowell's truck?

9 A I do remember a tool box being on scene, but I don't
10 remember it being on the back of his truck.

11 Q So it was off of the back -- it was off of the back of
12 his truck?

13 A Yes, sir.

14 Q On the ground near it?

15 A Yes, sir. Like I said, that's correct.

16 Q In relationship to that container was that toolbox
17 close by, too?

18 A There again, I cannot recall. I cannot recall its
19 exact placement.

20 Q I mean, there were numerous bottles that were thrown
21 out of that box, weren't there?

22 A Yes, sir.

23 Q And they were used -- used up? Just old stuff that's
24 in the -- did you smell them to see whether or not they were
25 fresh or not?

1 A No, sir. You could -- you could smell beer around the
2 scene. But no, I didn't pick them up to smell them.

3 Q How many -- you said that there were -- if there were
4 bottles of beer in the back, could those have busted, too?
5 Did you all examine every beer on the scene to see whether
6 or not they were busted?

7 A I can't speak for everyone else, but I did not.

8 Q And is it true that you all got a search warrant to be
9 able to go and examine the interior of Mr. Rowell's car to
10 be able to cut out carpet if you found any live beer in his
11 car and you all didn't find any?

12 A I have no idea, sir. I couldn't even answer that
13 question.

14 Q You didn't remove anything from a -- there was a bag in
15 the back of the truck we've seen pictures of --

16 A Uh-huh.

17 Q -- and it was -- in some pictures it's zipped up and
18 some it's zipped down.

19 A Uh-huh.

20 Q Do you know who touched that?

21 A I do not. I do not recall.

22 Q You didn't do it though, did you?

23 A Not that I recall.

24 Q I mean, you would recall opening a bag and looking into
25 it to see what you could find?

1 A I would like to think so. But it has been a while and

2 I don't remember going into it.

3 MR. GARRETT: Beg the Court's indulgence.

4 THE COURT: Sure. Take your time.

5 Q Did you have a chance to review your pictures? The
6 ones that you took?

7 A Yes, sir. I looked at a lot of pictures.

8 Q Okay. I guess the question is, is if you've got your
9 pictures with you could I get you to look at them real quick
10 and see whether or not you were the one who took the picture
11 of the bag closed and open?

12 A I would absolutely look at it. Yes, sir.

13 MR. GARRETT: Do you all have his stuff segregated?

14 Q Do you remember at all whether or not there was also a
15 bag right beside that Red Stripe in the backseat?

16 A No, sir. I mean, I have seen some pictures.

17 Q It had Mr. Rowell's tag on it from work at the Velux?

18 A No, sir. I don't.

19 Q I understand it's been a while.

20 MR. GARRETT: Officer, thank you for your work.

21 THE WITNESS: Thank you.

22 THE COURT: Redirect?

23 MR. DOWTIN: Just briefly, Your Honor.

24 THE COURT: Sure.

25 REDIRECT EXAMINATION

1 BY MR. DOWTIN:

2 Q Trooper Bishop, do you remember approximately when the
3 MAIT team arrived?

4 A No, sir. I don't remember an approximate time.

5 Q But they did get on scene sometime after you were
6 already there?

7 A Yes, sir. Absolutely.

8 Q And absolutely they were already there or --

9 A No, sir. I was on scene, then they -- they arrived. I
10 was already there.

11 Q And do they typically take their own pictures?

12 A They do.

13 Q They do their own investigation?

14 A Yes, sir. Once the MAIT team arrives our job kind of
15 is to assist them, whatever duties they may be. If it's
16 just retrieving stuff, equipment for them, secure the scene.

17 Q And going back to you smelled beer -- you could smell
18 beer around the scene. That means just when you walked up
19 it was in the air?

20 A No, sir. I couldn't smell it around the red truck, but
21 once I was taking pictures around the blue truck I could --
22 I could smell alcohol, beer.

23 Q I just want to show you State's Exhibit 13 again just
24 to clarify. You're not saying that these are the brake
25 marks, correct?

1 A Yes, sir. I am not testifying to those being the brake
2 marks.

3 Q Is this what you're referring to?

4 A Yes, sir. That long straight line is what I'm
5 referring to, which is in that lane. I'm not referring to
6 the dual -- dual marks.

7 Q The long line that leads directly up to the red truck?

8 A Yes, sir.

9 MR. DOWTIN: No further questions. Thank you, Trooper.

10 THE WITNESS: Yes, sir.

11 MR. GARRETT: Judge, I just have one question.

12 RECROSS-EXAMINATION

13 BY MR. GARRETT:

14 Q You said you didn't even know what this stuff was or
15 this stuff that was in the can in the other car, the red
16 car, right?

17 A I knew what it was. As far as what type of alcohol
18 that it's labeled, liquor, beer, wine cooler, I wasn't sure
19 about that. But I knew it was alcoholic.

20 Q So is it fair to say that if it's not -- it didn't have
21 a beer smell then you didn't recognize it that night?

22 A I didn't recognize that smell as being alcoholic.

23 Q Now, you do know how to smell marijuana, don't you?

24 A Yes, sir.

25 Q Smell any marijuana in that red truck?

1 A Not that I recall.

2 Q Y'all are good about that now, smelling to make sure to
3 see if there's any drugs in it?

4 A Uh-huh.

5 Q And I saw on the MAIT report where y'all were
6 suspicious of drugs. I'm just asking you, were you
7 suspicious because you smelled it? Smelled marijuana?

8 A No, sir. I never recall smelling any marijuana. And
9 as far as the MAIT report, I didn't have anything to do with
10 that.

11 Q And you didn't smell any marijuana in Mr. Rowell's
12 truck?

13 A No, sir. I don't -- I don't remember smelling
14 marijuana.

15 MR. GARRETT: Thank you.

16 THE COURT: You can step down, sir. Thank you.

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 THE COURT: All right, Solicitor.

20 MR. DOWTIN: State calls Lowenna Prestel, Your Honor.

21 LOWENNA PRESTEL, having first been
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. DOWTIN:

25 Q Ms. Prestel, could you please state your name and spell

1 it for the record?

2 A Lowenna Prestel, L-o-w-e-n-n-a, P-r-e-s-t-e-l.

3 Q And, Ms. Prestel, where are you currently employed?

4 A Greenwood County EMS.

5 Q And about how long have you been working there?

6 A Four years.

7 Q And can you go into a little bit about your educational
8 background and training?

9 A I've been a paramedic for 10 years, worked EMS 11, been
10 certified -- we currently go like four hours every month to
11 keep our certification up. I also got my critical care
12 paramedic and flight paramedic.

13 Q And how about some of your day-to-day responsibilities
14 with EMS?

15 A We respond to all 911 calls, trauma, medical. It can
16 range anything from car accidents and shootings to strokes,
17 heart attacks, and just people not feeling well and stuff
18 like that. Helping them with vital signs, stabilizing until
19 we can get them to the hospital.

20 Q And, Ms. Prestel, were you working on November 15th,
21 2014?

22 A Yes.

23 Q Do you recall responding to an automobile collision
24 that resulted in a fatality?

25 A Yes.

1 Q Do you know where that collision occurred?

2 A 225 between 221 and the Bypass.

3 Q Do you know about what time you got on scene?

4 A About 7:30 that night.

5 Q And what did you observe when you arrived on scene?

6 A When we first pulled up we were the second unit
7 responding. The paramedic, or the first unit, meet us, that
8 the person in the truck that was still in the roadway was
9 dead. And we walked over there and confirmed that, and went
10 over to the passenger and started rendering aid to him.

11 Q And do you recall what the truck's looked like?

12 A I know there was major front-end damage to the truck
13 that was in the road. I didn't go over to the other
14 vehicle.

15 Q I'm going to show you what's been marked as State's
16 Exhibits 10 and 15. Can you tell me what these are?

17 A Those were the two vehicles that were involved.

18 THE COURT: You need to speak up, ma'am.

19 A The two vehicles involved.

20 Q And the first vehicle you approached, was it this
21 truck?

22 A Yes.

23 Q And what did you do -- what did you do when you
24 approached this truck?

25 A We went over to check where the driver was. Check the

1 driver, then went over to the passenger side.

2 Q And how about this truck? Did you have any involvement
3 with the driver of this truck?

4 A No.

5 Q So let's go back to the red truck. Can you go through
6 your involvement dealing with both of the people inside the
7 red truck?

8 A I went over to the driver's side and I checked the
9 driver. Confirmed what they'd already determined, that he
10 had died. Went over to the passenger and talked to him.
11 Assessed his -- what we consider ABCs, his airway, breathing
12 and circulation, and he was talking to us. He gave us his
13 chief complaint which was his left leg hurting. And then we
14 went to arrange getting him out of that vehicle for
15 transport.

16 Q You said the passenger of the red truck said his left
17 leg was hurting?

18 A Yes.

19 Q Was it obvious he had an injury?

20 A Yes. There was obvious deformity to that left leg.

21 Q So as far as helping the passenger, after you checked
22 on the passenger, you assessed he had a bad leg, what did
23 you do as far as helping treat Mr. Sanders?

24 A At the time our protocol is, based on mechanism of
25 injury, we would do spinal mobilization, so C-spine was held

1 until we were able to get him out of the vehicle onto a long
2 spine board. He was secured on that with his leg stabilized
3 using that versus a different splint. And once we moved him
4 onto the stretcher we secured it in the back of the
5 ambulance and did a secondary assessment in the back of the
6 ambulance.

7 Q What do you mean by secondary assessment?

8 A We would expose him, looking for any other kind of
9 injuries to other parts of the body that may have been
10 missed because of the pain due to the injury to the leg.
11 Nothing was noted to be found at that time and he was
12 transported after a second set of vitals to the hospital.

13 Q Did he appear to be in a significant amount of pain?

14 A I don't remember. I didn't document enough. But, I
15 mean, I can remember he was in pain. As far as significant,
16 that's based on personal preference.

17 Q And you said you -- where did you all transport Mr.
18 Sanders?

19 A Self-Regional Hospital.

20 Q Did you have any other involvement after you all got
21 him to the hospital?

22 A No.

23 Q Just briefly going back. Were you the only person with
24 EMS that went to the scene that night?

25 A No.

1 Q Was your unit -- what unit do you work with?

2 A Medic -- I was a Medic 10, which was based here at the
3 courthouse at the time.

4 Q Do you recall who was with you in Medic 10?

5 A A.J. Hill.

6 Q And you clearly worked pretty closely with Mr. Sanders.
7 Did you ever notice an odor of alcohol coming from Mr.
8 Sanders?

9 A Not that I recall, and I didn't document that I noticed
10 anything.

11 Q So no odor of marijuana?

12 MR. GARRETT: Objection, leading.

13 A Not that I recall noting.

14 MR. GARRETT: That was leading.

15 THE COURT: Try to -- try to avoid leading a little
16 bit.

17 Q Did you notice the smell of any alcohol or drugs?

18 A I didn't note anything that night.

19 MR. DOWTIN: Beg the Court's indulgence?

20 THE COURT: Sure.

21 MR. DOWTIN: Thank you. Please answer any questions
22 Defense counsel might have.

23 MR. GARRETT: I have no questions. Thank you for your
24 work.

25 THE COURT: Thank you, ma'am, you can step down. And

1 if there's no objection, you are free to leave the
2 courthouse.

3 (Whereupon, the witness stepped down from the witness
4 stand.)

5 THE COURT: Your next witness, Solicitor, how long do
6 you anticipate?

7 MR. BLACK: Probably a good while, Judge.

8 THE COURT: All right. Mr. Foreman, ladies and
9 gentlemen of the jury, it would be a good time to take an
10 afternoon break. So if you'll go back to the jury room, and
11 we'll get you back out shortly. And once again remind you,
12 no discussion about anything related to this case, and we'll
13 get you back out shortly.

14 (Whereupon, the jury exited the courtroom at 3:16 p.m.)

15 THE COURT: We'll be in recess about 10 minutes.

16 (Whereupon, a recess was held from 3:16 p.m. to 3:36
17 p.m.)

18 THE COURT: Let's bring the jury out, please.

19 (Whereupon, the jury entered the courtroom at 3:36
20 p.m.)

21 THE COURT: Let the record reflect the jury is back in
22 the courtroom. Solicitor, are you ready to call your next
23 witness?

24 MR. BLACK: Yes. The State calls Matthew Sanders.

25 MATTHEW SANDERS, having been first

1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. BLACK:

4 Q Mr. Sanders, can you state your full name for the
5 record, please.

6 A Matthew Ryan Sanders.

7 Q Okay, Mr. Sanders. Where are you from?

8 A Greenwood.

9 Q Did you go to high school around here?

10 A Abbeville High School.

11 Q Did you -- when did you graduate?

12 A 2014.

13 Q And once you -- tell me a little bit about your family
14 situation. Is your dad still alive?

15 A Yes, sir.

16 Q What about your mother?

17 A Deceased.

18 Q When did she die?

19 A I want to say around 2001.

20 Q You were still in elementary school at the time?

21 A Yes, sir.

22 Q After your mother died were you all in Greenwood when
23 that happened?

24 A Yes, sir.

25 Q Did you all end up moving to Abbeville at a certain

1 point?

2 A My father ended up getting custody of me and I lived in
3 Greenwood and then moved to Abbeville.

4 Q When did you start -- did you go to Abbeville High
5 School for four years?

6 A Yes, sir.

7 Q And you graduated from Abbeville?

8 A Yes, sir.

9 Q And what year was that again? I'm sorry.

10 A 2014.

11 Q After -- after you graduated from high school how old
12 were you?

13 A Eighteen.

14 Q What did you do once you graduated from high school?

15 A Looked for a job.

16 Q I'm sorry?

17 A Looked for a job.

18 Q And were you successful?

19 A No, sir.

20 Q You met Jeremy Cockrell around this time; is that
21 correct?

22 A Yes, sir.

23 Q When did you meet Mr. Cockrell?

24 A 2014.

25 Q Do you know what month it was? Do you remember?

1 A Approximately around -- no, I believe it was actually
2 2015. My mistake.

3 Q But it was kind of -- it was about the time that you
4 had -- I know this is hard for you. Do you need a minute?

5 A No, it's cool.

6 Q So when did you graduate high school again?

7 A 2014.

8 Q And that would have been May of 2014?

9 A Yes, sir. So it was that summer.

10 Q You met Jeremy -- did you meet him before you graduated
11 or after you graduated?

12 A After I graduated.

13 Q And what was -- what the extent of your relationship?

14 A Significant other.

15 Q And can you kind of just describe -- I mean, were you
16 all like best friends as well in addition to that?

17 A Yes, sir.

18 Q How did you all end up meeting?

19 A The Internet.

20 Q The Internet? Did Jeremy have a job at the time?

21 A No, sir.

22 Q When you all met he didn't have a job? Anytime while
23 you all were in a relationship did he have a job?

24 A Well, at one point yeah, he was looking for work. I'm
25 not sure the name of the place he was working but it was in

1 Saluda. I think it was Carolina Pride.

2 Q Were you all staying together at the time that you all
3 were in a relationship?

4 A Yes, sir.

5 Q And where were you all staying?

6 A Here in Greenwood, then we were pretty much off and on
7 homeless.

8 Q And let's go to the date of the incident. That would
9 have been November the 15th of 2014. Does that sound
10 correct?

11 A That's correct.

12 Q Let's talk about kind of the beginning of the day.
13 Where were you all that morning?

14 A We were in Saluda at the Huddle House.

15 Q And what did you all do awhile you all were in Saluda?

16 A Can you be more specific?

17 Q At the Huddle -- I guess you all were grabbing
18 breakfast that morning?

19 A Yes, sir.

20 Q Did you all go anywhere after that?

21 A We went to Abbeville.

22 Q What time did you all get to Abbeville?

23 A It was probably around 3:00 in the afternoon.

24 Q And what did you do while you were in Abbeville?

25 A We were -- I was asking my family for help.

- 1 Q And who in particular were you asking for help?
- 2 A My uncle-in-law.
- 3 Q And what's his name?
- 4 A Mark McKinnis (PHONETIC).
- 5 Q And specifically what were you asking for?
- 6 A A place to stay.
- 7 Q And how long were you in Abbeville?
- 8 A Between around 3:00 to 7:00 that day.
- 9 Q Were you at his house?
- 10 A No, we did not go by his house. All I did was call
- 11 from a friend's house.
- 12 Q Whose friend were you -- who was your friend?
- 13 A Kurt.
- 14 Q And that was in Abbeville?
- 15 A Uh-huh.
- 16 Q And you talked to your uncle, right?
- 17 A Over the phone, yes.
- 18 Q Did you ever meet up with him?
- 19 A No, sir. Instead I ended up going to a teacher's
- 20 house. Former teacher.
- 21 Q Who was that?
- 22 A Raines. Mr. Raines.
- 23 Q And he was your teacher in high school at Abbeville?
- 24 A He was an agriculture teacher.
- 25 Q How many -- did you take several classes from him?

- 1 A Yes, sir.
- 2 Q How many?
- 3 A Two years.
- 4 Q Did you go by his house?
- 5 A We went -- yeah, we went to his house.
- 6 Q How long were you there?
- 7 A Probably about 30 minutes. He wanted to talk.
- 8 Q What did you all talk -- what was the extent of the
- 9 conversation?
- 10 A He was telling me not to mess up in life and to better
- 11 myself.
- 12 Q Did you all -- after you left his house what did you
- 13 end up doing?
- 14 A We tried contacting Brandy but we went back to Kurt's
- 15 house.
- 16 Q Who is Brandy?
- 17 A Brandy is -- from my understanding, is Jeremy's cousin.
- 18 Q And he's -- so she -- is it a she?
- 19 A She.
- 20 Q She's related to Jeremy?
- 21 A Yes.
- 22 Q Did you all get in contact with her?
- 23 A We did not.
- 24 Q Where -- so you ended up leaving Abbeville at 7:00.
- 25 A Around 7:00.

1 Q Around 7:00. Where were you all going once you left
2 Abbeville?

3 A We were going to go to her house, and apparently her
4 house is in Anderson at the time, or around Anderson County.
5 I don't know where she lives. It was kind of a faithful
6 journey, I guess you could say.

7 Q Had you ever met her before?

8 A No, sir.

9 Q Had you ever been to her house?

10 A No, sir.

11 Q You were just kind of relying on information that
12 Jeremy was giving you?

13 A Yes, sir.

14 Q You all -- did you all get in the car and start heading
15 toward Brandy's house?

16 A We stopped at 7-Eleven to get gas.

17 Q Which 7-Eleven was that?

18 A 7-Eleven in Abbeville.

19 Q And you all paid for the gas and then kind of continued
20 on this journey?

21 A Yes, sir.

22 Q You eventually -- you all eventually got into a wreck
23 that evening; is that right?

24 A Yes, sir.

25 Q And do you know -- do you know where the wreck was?

1 A On the Highway right past the high school. Greenwood
2 High School. Where the Pepsi plant is, if I'm not mistaken,
3 right?

4 Q It's in -- is it Greenwood County?

5 A Yes, sir.

6 Q So you all were back in Greenwood County from
7 Abbeville?

8 A Yes, sir.

9 Q How did you all get -- how did you all get here? I
10 guess on 72? Highway 72?

11 MR. GARRETT: Objection, Your Honor, leading.

12 THE COURT: Try to rephrase.

13 Q Do you know which highway you all took to get back to
14 Greenwood?

15 A It's Highway 72. That's the main highway from
16 Abbeville to Greenwood.

17 Q Was it a four-lane road?

18 A Yes, sir. Well, the road we crashed on was not a
19 four-lane road, but there's -- it spits -- it turns into a
20 two-lane. It's a four-way, then turns into a two-lane.

21 Q Okay. Leading up to -- leading up to the wreck what
22 were you all doing in the vehicle? Were you all talking or
23 anything?

24 A We were talking.

25 Q What was the conversation about?

- 1 A Conversation changed between what we were going to do
2 at Brandy's to me complaining.
- 3 Q And what were you complaining about?
- 4 A I wish not to say.
- 5 Q But you and Jeremy were having a difficult time?
- 6 A Yes, sir.
- 7 Q Who was driving the vehicle?
- 8 A Jeremy.
- 9 Q And where were you sitting in the vehicle?
- 10 A Passenger.
- 11 Q And the vehicle -- can you describe to the jury what
12 vehicle you guys were driving?
- 13 A It was a red Chevrolet.
- 14 Q And it was Jeremy's vehicle?
- 15 A Yes, sir. It used to belong to his father.
- 16 Q Do you know what kind of make and model that vehicle
17 was?
- 18 A Was it a 1990? A '90, I'm guessing.
- 19 Q What color was the vehicle?
- 20 A Red.
- 21 Q I don't know if you can see the screen from there. I'm
22 showing you what's been marked and put into evidence as
23 State's No. 10. Is that a picture of the vehicle that
24 Jeremy was driving?
- 25 A Yes, sir. That's what it looks like.

1 Q Does that look like his vehicle?

2 A It would appear to be.

3 Q And you were in the passenger seat in that car?

4 A Yes, sir.

5 Q Can you describe for us -- do you remember -- do you
6 remember the wreck? Do you remember the collision?

7 A Yes, sir.

8 Q Can you describe for us kind of what happened right
9 before the collision?

10 A I was screaming.

11 Q Did you see -- did you see the vehicle approaching you
12 guys?

13 A It looked like it was in the right correct. The lane
14 you're supposed to be in. You know, as if when you come
15 around corners sometimes it looks like the vehicle's in your
16 lane but it's really not. That's what I thought, but it was
17 actually in our lane.

18 Q Do you remember seeing -- seeing headlights?

19 A There was no headlight glare, if that's what you're
20 saying. I did not notice the headlights until it was too
21 late.

22 Q What about -- do you remember -- do you remember five
23 seconds before the wreck?

24 A Yes, sir.

25 Q Can you describe kind of what you remember seeing five

1 seconds before the wreck?

2 A Headlights.

3 Q Did you do anything once you saw the headlights?

4 A Yes.

5 Q What did you do?

6 A I grabbed the handle right here and blocked my face and
7 closed my eyes.

8 Q Did you curl up?

9 A Yes, sir.

10 Q How long were you in that position until you all made
11 impact?

12 A I was in that position then and after impact.

13 Q You said you screamed, right?

14 A Yes, sir.

15 Q What about Jeremy, did he scream?

16 A No, sir.

17 Q Did -- and you might not remember this, but did you
18 hear any --

19 A He slammed on brakes.

20 Q He did? How long was he on the brakes for?

21 A The entirety of the incident.

22 Q So the full five, three seconds? That particular
23 vehicle that you were driving, how fast -- how fast does
24 that vehicle go?

25 A It is an old vehicle. If you're speeding in it and

1 going down a hill you might make it to 55 to 60, but we
2 weren't going that fast. We were going approximately 40.

3 Q And did you see -- was the speedometer working on the
4 vehicle?

5 A Yes, sir.

6 Q Could you see it from where you were sitting?

7 A No, sir. I was not paying attention to the
8 speedometer.

9 Q After you guys made contact you said -- were you curled
10 up in a ball?

11 A Fetal position.

12 Q How long were you in that position for?

13 A The duration of the incident.

14 Q Even after the incident were you --

15 A After the incident, no, sir.

16 Q Were you able to stretch your legs?

17 A No, sir. The door was ajar and the headlights inside
18 the car came on.

19 Q After the incident did you try to make contact with
20 Jeremy?

21 A Yes, sir.

22 Q What did you do?

23 A I -- please be more specific.

24 Q Did you try to talk to him?

25 A Yes, sir.

1 Q What did you say?

2 A I do not wish to say.

3 Q Did you touch him?

4 A Yes, sir.

5 Q Was he still breathing when you tried to touch him?

6 A He could not breath.

7 Q What was -- what was he doing?

8 A It was like the air had been knocked out of him.

9 Q Which side of the vehicle -- of your vehicle was hit?

10 Was it his side?

11 A It was -- the entire impact hit his side.

12 Q And the steering column, can you describe where the

13 steering column went after impact was made?

14 A He threw it to his right. He didn't throw it, but

15 that's what it appeared to be.

16 THE COURT: Sit a little closer to the microphone, if

17 you would, please, Matthew.

18 THE WITNESS: All right.

19 A It appeared as if he threw the steering wheel to his

20 right or he pushed it off of himself.

21 Q The dash of the vehicle, did that kind of collide into

22 his chest, or can you describe what happened to the --

23 A The steering wheel is what crushed him.

24 Q And did -- did it get pushed up against him?

25 A Yes, sir.

1 Q Did you have -- what kind of injuries did you have, Mr.
2 Sanders?

3 A Broken left femur.

4 Q Did you try to get out of the vehicle once the --

5 A Yes, sir.

6 Q -- collision occurred? Did you -- were you able to get
7 out?

8 A No, sir.

9 Q Did somebody end up helping you get out of the vehicle?

10 A Yes, sir.

11 Q Do you know who that was?

12 A Medical people. Not doctors, but -- I'm not sure who
13 they are. Responders. First aid responders.

14 Q How long did it take for them to get to the vehicle to
15 respond?

16 A Anywhere between five to 10 minutes.

17 Q Probably seemed like an eternity, didn't it?

18 A Yes, sir.

19 MR. GARRETT: Objection, Your Honor.

20 Q Did you smell any --

21 THE COURT: Try to rephrase and not lead.

22 MR. BLACK: Yes, Your Honor.

23 Q Did you -- did you notice any smells of any fluid or
24 anything?

25 A No, sir.

- 1 Q What about the vehicle? Was your vehicle smoking?
- 2 A No, sir.
- 3 Q Did it ever smoke at all?
- 4 A I'm unaware, sir.
- 5 Q Were you concerned about the possibility of maybe like
- 6 a fire or something?
- 7 A Yes, sir.
- 8 Q So you were trying to get out of the vehicle?
- 9 A That's correct.
- 10 Q How many people ended up helping you get out of the
- 11 vehicle?
- 12 A Two actually pulled me out.
- 13 Q And once you got out of the vehicle what did you do?
- 14 Where did they take you?
- 15 A I was put on a stretcher and put in the ambulance.
- 16 They took me to Self-Regional.
- 17 Q Was that the last time you saw Jeremy?
- 18 A Yes, sir.
- 19 Q Going back to once the dashboard kind of hit Jeremy,
- 20 did he say anything to you?
- 21 A He could not speak.
- 22 Q What about -- was he making any kind of noises? Was he
- 23 moaning or anything?
- 24 A Yes, sir.
- 25 Q How long did that last for?

1 A About three minutes.

2 Q Did you close your eyes during the collision, while the
3 collision was going on?

4 A Yes, sir. However, I opened them back up after the
5 collision.

6 Q How long were you in the hospital, Mr. Sanders?

7 A Approximately a week.

8 Q And you had a surgery on your leg; is that right?

9 A I had immediate surgery the next -- the following
10 morning.

11 Q Did they place a rod in your femur?

12 A Yes, sir.

13 Q Do you still have that in you?

14 A Yes, sir.

15 Q How long were you on crutches after this incident?

16 A Two months.

17 Q When were you able to start walking without the
18 crutches?

19 A On the third month I would be off and on crutches.

20 Q Would your leg get sore and would it irritate you?

21 A I had to take medication.

22 Q When were you able to start, you know, running and
23 doing other exercises?

24 A After April the following year.

25 Q So about a year. How old were you at the time of the

1 wreck, Mr. Sanders?

2 A Eighteen.

3 Q Talk a little bit about you and Mr. Cockrell's
4 relationship. Would you all drink alcohol together
5 occasionally?

6 A Yes, sir.

7 Q The day of the wreck had you all had anything to drink?

8 A No, sir.

9 Q You said you were over at your former teacher's house
10 earlier that afternoon; is that right?

11 A Yes, sir.

12 Q Did you drink anything over at his house?

13 A No, sir.

14 Q And you said you were over there how long?

15 A About 30 minutes.

16 Q When was the last time that you or Mr. Cockrell had
17 drank alcohol prior to the wreck?

18 A Approximately two weeks prior to the wreck.

19 Q And what had you all drank?

20 A Red Apple's Ale.

21 Q Did you and Mr. Cockrell ever smoke marijuana together?

22 A Yes, sir.

23 Q How often would you all smoke marijuana?

24 A Any time we were around any of his friends.

25 Q The day of the incident was November the 15th of 2014.

1 Did you all smoke marijuana that day?

2 A No, sir.

3 Q When was -- when was the last time that you all had
4 smoked marijuana that day?

5 A Approximately about a week.

6 Q A week before that incident?

7 A Yes, sir.

8 Q Where was that?

9 A Saluda.

10 Q With his friends, you said?

11 A His friends. Yes, sir.

12 Q Did you ever smoke any marijuana just you alone without
13 him?

14 A No, sir.

15 Q What about him with -- did he ever smoke alone?

16 A No, sir.

17 Q You all were always smoke together in a social setting?

18 A We were always together.

19 Q The vehicle that you all were driving, were there
20 airbags in that vehicle?

21 A They do not deploy.

22 Q Not on his side?

23 A Not on his side or my side.

24 Q Were you wearing your seatbelt that day?

25 A Yes, sir.

1 Q Did your head hit anything in the vehicle?

2 A No, sir.

3 Q Did you ever lose consciousness?

4 A No, sir.

5 Q How long was it before EMS got to you? Do you
6 remember?

7 A Approximately five to 10 minutes.

8 Q How long -- did they treat you on the scene before they
9 took you to the hospital?

10 A They treated me on the trip to the hospital when I was
11 in the back of the ambulance.

12 Q Once you got put on the ambulance did they take you
13 right away or did they kind of wait for a few minutes?

14 A They hooked IV and morphine up to me and they worked as
15 fast as they could.

16 Q Did you see emergency responders get Jeremy out of the
17 vehicle?

18 A No, sir.

19 Q I'm showing you what's been marked as State's No. 20.
20 I don't know if you can see the screen. Is that a true and
21 accurate representation of Mr. Cockrell's vehicle from your
22 perspective?

23 A Yes, sir.

24 Q And that picture would have been -- was that a picture
25 of where you would have been sitting?

1 A Where the steering wheel is right now?

2 Q Yes.

3 A I believe so. I don't know what angle that's out.

4 THE COURT: You need to speak up, sir.

5 A I cannot see the angle.

6 MR. BLACK: Your Honor, may I approach the witness?

7 THE COURT: Sure.

8 Q I'm going to show it to you. You might be able to see
9 it better. I'm also going to show you State's No. 19. Is
10 that the angle from your perspective that you saw Mr.
11 Cockrell?

12 A Yes, sir.

13 MR. BLACK: I beg the Court's indulgence.

14 THE COURT: Sure. Take your time.

15 Q Mr. Sanders, from your perspective can you see how you
16 all were driving that evening? How Mr. Cockrell was
17 driving?

18 A Please me more specific.

19 Q You were in the passenger -- you were in the front
20 passenger seat; is that right?

21 A Yes, sir.

22 Q There's a big window there; is that correct?

23 A Yes, sir.

24 Q Could you see out the window?

25 A Left window, right window, front window? What window?

1 Q Front window?

2 A The hood of the truck was -- I could not see from the
3 hood of the truck after the accident. Be more specific
4 about the time.

5 Q Before the wreck.

6 A Before the wreck, could --

7 Q Could you see out the front window?

8 A Yeah. That's --

9 Q You could see clear as day?

10 A Yes, sir.

11 Q Which lane were you all traveling in at --

12 A The right lane.

13 Q Were you all -- were you all in your lane?

14 A Yes, sir.

15 Q You all didn't cross left to center?

16 A No, sir.

17 MR. BLACK: Please answer any questions Mr. Garrett
18 might have for you, sir.

19 THE COURT: Mr. Garrett, any cross-examination?

20 MR. GARRETT: Your Honor, may we approach the bench?

21 THE COURT: Okay.

22 (Whereupon, a sidebar was held.)

23 THE COURT: Mr. Foreman, ladies and gentlemen of the
24 jury, we have a legal matter that should not take long.

25 Don't anticipate it taking long. Sometimes I say that's

1 famous last words. But if you'll go back to the jury room
2 for a just a few minutes and we'll get you back out shortly.
3 Thank you for your patience and understanding.

4 (Whereupon, the jury exited the courtroom at 4:04 p.m.)

5 THE COURT: We're going to go back. I've already had a
6 conference with the lawyers. We're going to go back into
7 chambers.

8 (Whereupon, a recess was held from 4:04 p.m. to 4:09
9 p.m. There was a brief off the record discussion held in
10 chambers with counsel, the witness, and the Court.)

11 THE COURT: We're starting -- Mr. Garrett, we're
12 staring your cross, right?

13 MR. GARRETT: Yes, Your Honor.

14 THE COURT: All right. Let's bring the jury out.

15 (Whereupon, the jury entered the courtroom at 4:09
16 p.m.)

17 THE COURT: Let the record reflect the jury is back in
18 the courtroom. Mr. Garrett, you may begin your
19 cross-examination.

20 MR. GARRETT: Thank you.

21 CROSS-EXAMINATION

22 BY MR. GARRETT:

23 Q Mr. Sanders, you were talking about the vehicle on your
24 way from -- I guess it would have been Abbeville to
25 Anderson?

1 A Yes, sir.

2 Q And do you recall specifically what route you all were
3 taking driving from Abbeville to Anderson?

4 A Do you know where the old Hot Spot used to be?

5 Q I'm sorry. The old what?

6 A Hot Spot. I believe it's not the 7-Eleven. I'm not
7 aware of what it still is. It's on the highway -- it's a
8 highway that meets another highway, and you go toward Saluda
9 to get to Anderson. But you don't take the left to get to
10 Saluda. You go straight towards Aiken County to get to
11 Anderson, if I'm correct. I don't really know the routes to
12 Anderson.

13 Q Okay. So you don't really recall what route you all
14 were driving that evening to get to --

15 A He knew -- he knew the way to get there. I didn't.

16 Q I got you. So is it clear to say you really weren't
17 paying very much attention then to the roads and that kind
18 of thing?

19 A We were past the Pepsi plant, from what I understand.

20 Q When you say from what you understand, who told you
21 that?

22 A Please rephrase the question.

23 Q I said, you said from what I understand. That sounds
24 like somebody's told you that you were near the Pepsi plant.

25 A My recollection of the road, because of it being night,

1 is not precise.

2 Q I understand. Now, had you ever had any mechanical
3 test done on this 2500 1990 Chevrolet vehicle?

4 A No, sir.

5 Q And so, did he -- did Mr. Cockrell take possession of
6 it from his mom when you and he began dating?

7 A After we were dating.

8 Q And so, he took possession approximately when? If you
9 all started dating in, what, May?

10 A October.

11 Q October, okay. And so, you had ridden with him from
12 October through November, the date of the accident?

13 A Yes, sir.

14 Q And can you kind of help me understand where you were
15 living?

16 A We were living near Lake Greenwood during the time that
17 he actually acquired the vehicle.

18 Q And then after that where did you live?

19 A Out of the truck itself.

20 Q All right. And was any mechanical work done on the
21 truck if it would only go -- how fast did you say it would
22 go? Did you say 55 downhill?

23 A No. I said anywhere between 55 to 60 probably down a
24 hill.

25 Q And you've never seen it get any faster than that?

1 A Never needed to go faster than that.

2 Q Do you have a driver's license?

3 A No, sir.

4 Q So you didn't drive the vehicle?

5 A No, sir.

6 Q Now -- okay. And you were asked about when was the
7 last time you smoked marijuana.

8 A Yes, sir.

9 Q And do you recall telling the people at the hospital
10 that you had a habit of smoking a gram of marijuana daily?

11 A No, sir. I do not recall that.

12 Q I'm going to show you --

13 MR. BLACK: Mr. Garrett.

14 MR. GARRETT: Yes. It's what I showed you earlier.

15 Q This is a -- I submit to you is a report that was
16 filled out for you and on your behalf by Behavioral Health
17 Center Assessment Tool. It's already been talked about a
18 little bit by Dr. Cathcart, and I want you to go down
19 through here and look. Just start at 11 and see if this is
20 the -- this is what you told the doctor. Just look at it
21 first and then we'll talk about it.

22 A What is this from?

23 Q This is from the report of the -- your Self Regional --
24 I'll give you the earlier pages. This is where they did an
25 assessment --

1 MR. BLACK: Judge, I'm going to object to this. I
2 don't think that Mr. Sanders is aware of any of this. Any
3 of these medical records or has any idea of any of these
4 documents. They haven't been authenticated, anything of
5 that nature.

6 A I also don't see any signatures.

7 THE COURT: Wait a minute, sir. Let me see the lawyers
8 over here at the side.

9 (Whereupon, a sidebar was held.)

10 Q Are you Matthew Sanders?

11 A Yes, sir.

12 Q Is your date of birth 11/17/14?

13 A No, sir.

14 Q Okay. Is your date of birth 3/9/96?

15 A Yes, sir.

16 Q Were you in the hospital on 11/17/14?

17 A Yes, sir.

18 Q Were you there at -- all that day, the 17th?

19 A If you needed more accurate information you can
20 probably get the information.

21 THE COURT: Just if you know you were there at the
22 hospital on that day just tell him if you were, if you know.

23 A I believe I was.

24 Q All right, sir. Did -- was there some question about
25 the seatbelt, as to whether or not you were wearing it and

1 your injuries, or something going on about that?

2 A Yeah, I was wearing my seatbelt.

3 Q But was there some question about that? Did somebody
4 question you or you felt it necessary to talk to --

5 A No, sir.

6 Q -- to the doctor, Dr. Cathcart, III, about that?

7 A No, sir.

8 Q Did somebody say you weren't or --

9 A No, sir.

10 Q The -- in your -- do you recall having a discussion
11 with them, did you suggest that you used to use alcohol --
12 or, excuse me, you had not used alcohol in quite some time;
13 is that correct?

14 A Yes, sir.

15 Q And that you used tobacco sparingly?

16 A Yes, sir.

17 Q Did you have a prescription for Adderall?

18 A No, sir. I do not have a prescription for Adderall.

19 Q Did you at the time?

20 A No, sir.

21 Q And did you tell them that you used marijuana, one gram
22 daily, and the last use was on 11/14/14?

23 A I did not sign any papers to that statement, if I have
24 made that statement. During the time of my interview, if I
25 was interviewed by anybody at the Medical Self Regional

1 Healthcare, I was under the influence of morphine.

2 Q And do you recall talking to a Joanna Poole, LPGI?

3 A No, sir.

4 Q Now, when you last used marijuana before this accident
5 with Mr. Cockrell could you tell the jury about it, please.

6 A My recollection of using recreational drugs alone, by
7 myself, or with anyone else, first off and foremost is
8 private information.

9 THE COURT: Mr. Sanders, you just have to answer the
10 question. Repeat it, Mr. Garrett, if you would, please,
11 sir.

12 MR. GARRETT: I was asking him about his prior use,
13 prior to this accident, the last time he used marijuana with
14 Mr. Jeremy Cockrell.

15 A You want me to describe it?

16 Q Just tell me when the last time it was how you recall
17 -- how did you smoke it or what did you do?

18 A Smoked a bowl with his friend Alex in Saluda.

19 Q Smoked a bowl with his friend Alex in Saluda?

20 A Yes, sir.

21 Q And was that on the 14th?

22 A No, sir.

23 Q And when was that?

24 A Approximately a week before the accident.

25 Q And so, you're saying that you hadn't smoked any

1 marijuana since then?

2 A No, I've not said I've not smoked any marijuana since
3 then.

4 Q I'm sorry. Between the time of the bowl smoking in
5 Saluda and the wreck. Did you smoke anymore between that
6 time?

7 A No, sir.

8 Q All right. And what kind of drinks did you say that
9 you all had in the truck? Did you know you all had --

10 A I did not say we had drinks in the truck. I said I
11 drunk -- that was -- the question was what was the last
12 thing I drunk.

13 Q And who -- have you ever drank any Four Loko?

14 A Yes, I have drunk Four Loko.

15 Q And you all were living out of that vehicle?

16 A Yes, sir.

17 Q And do you know the last time you drank a Four Loko?

18 A Prior to the accident, when he was working at Carolina
19 Pride I believe it was, we would occasionally drink Four
20 Loko and, yes, there was trash in the truck. And I've asked
21 about it, whether that would be used against me.

22 Q Why did that concern you whether it would be used
23 against you?

24 A I know -- I know how things are.

25 Q Are you aware that the larger alcoholic content of a

1 Four Loko compared to a regular beer?

2 A Fourteen percent.

3 Q And what's a regular beer?

4 A Approximately six percent.

5 Q And when was the last time you said you used -- you all
6 drank the Lokos?

7 A We weren't -- we could not afford alcohol. We could
8 not afford anything. Anything that we did consume was not
9 purchased by us.

10 Q Others would give it to you?

11 A We would hang out with friends.

12 Q All right. Let me just show you what's been marked
13 State's Exhibit 10 and State's Exhibit 18. Would you look
14 at those, too. Is that the -- is that Four Loko? Is that
15 the brand of drink we were talking about?

16 A Yes, sir.

17 MR. GARRETT: Beg the Court's indulgence.

18 THE COURT: Take your time.

19 Q Did Jeremy, to your knowledge, suffer from any type of
20 seizures or ever have any type of seizures that you know of?

21 A No, sir.

22 Q Are you aware that there might have been a BOLO taken
23 out? A BOLO is where the police are trying to locate you to
24 check on your -- check on you or check on your friend. Are
25 you aware as to whether or not either of your parents have

1 tried to locate you guys --

2 A No, sir.

3 Q -- during that time?

4 A Is that kind of like a warrant but --

5 Q No, it's not a warrant. It's just where the police are
6 trying to find you to do a wellness check to make sure
7 you're okay.

8 A No. Are you talking about after the accident or prior
9 to the accident?

10 Q Just right prior to the accident.

11 A No, I don't remember. No, that's -- that hasn't
12 happened.

13 Q You don't remember that?

14 A No, that didn't happen. Nothing like that happened.

15 Q All right. The -- did you look -- you said you did not
16 look down at the speedometer at the time of the accident?

17 A At the time of the accident, no, sir. I had my eyes
18 closed.

19 Q And how long did you have your eyes closed?

20 A Until impact.

21 Q And so when did you close your eyes prior to impact?

22 A As the vehicle approached, about 20 feet in front of
23 us.

24 Q Now, this vehicle was directly ahead of you according
25 to your testimony; is that correct?

1 A Yes, sir.

2 Q It's not a situation where he came from the side and
3 then got in front of you. He was already in front of you
4 according to you?

5 A There was a curve. The road curves. And like I said
6 previously, when you're approaching a curve at nighttime and
7 they have their high beams on it looks and sometimes appear
8 as if they're in your lane. However, I knew he was in our
9 lane immediately as he turned around the corner. We did do
10 what we could to prevent from impact.

11 Q Were you all driving at least 71 miles an hour up -- up
12 the road there a piece?

13 A No, sir.

14 Q And is there any chance that you guys almost ran off
15 the road and potentially hit the rail on the right-hand
16 side?

17 A No, sir. The impact is what caused us to -- the impact
18 was so heavy, that's why the vehicles looks the way it does
19 in the picture.

20 MR. GARRETT: Your Honor, that's all I have at this
21 time. Thank you, Mr. Sanders.

22 THE COURT: Redirect?

23 MR. BLACK: Just briefly, Your Honor.

24 THE COURT: That's fine.

25 REDIRECT EXAMINATION

1 BY MR. BLACK:

2 Q Mr. Sanders, do you have -- do you have a driver's
3 license currently?

4 A No, sir.

5 Q Did you have one in 2014?

6 A No, sir.

7 Q Have you ever had a driver's license?

8 A No, sir. Not even a permit.

9 Q Have you ever driven?

10 A I have driven.

11 Q But not -- when was the last time?

12 A The last time I drove was last year actually -- well,
13 no, this -- yeah, last year. Last year. In North Carolina
14 I used to drive.

15 Q But you haven't driven very often around this area of
16 Greenwood and Abbeville?

17 A No, sir.

18 Q And just to be clear, were your eyes open five seconds
19 before the crash?

20 A Five seconds before the crash, yes, sir.

21 Q And the -- the truck that hit you guys, which lane of
22 traffic was that in?

23 A He was in the right lane.

24 Q Was that --

25 A Our lane.

1 Q Was that the lane you guys were traveling in?

2 A Yes, sir.

3 MR. BLACK: I don't have any other questions.

4 THE COURT: Any recross?

5 RECROSS-EXAMINATION

6 BY MR. GARRETT:

7 Q Is it true that you said in a prior statement that you
8 felt like you were about 35 yards when you first noticed the
9 car coming at you?

10 A What was your previous question that led up to me
11 saying about 20 feet.

12 Q I didn't say anything about 20 feet. I'm asking you
13 did on a prior occasion when you were talking to law
14 enforcement giving a taped statement, did you not say that
15 you felt like it was about 35 yards?

16 A I do believe I said that.

17 MR. GARRETT: Thank you.

18 THE COURT: You can step down, sir. And if no
19 objection, you are free to leave or you're welcome to remain
20 with us.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 MR. GARRETT: Your Honor, on the basis of his
24 statements we may very well need to put him back on the
25 stand after -- after -- in the Defense case after we --

1 THE COURT: Well, let's just -- if you intend -- or you
2 think that you may call him as a witness, just make sure
3 that you know how to reach him.

4 Mr. Sanders -- well, you can provide information, could
5 you not?

6 MR. BLACK: Yes, Your Honor.

7 THE COURT: The Defense indicates they may call you as
8 a witness so just -- you know, hang close around. Okay?

9 MR. SANDERS: Yes, sir.

10 THE COURT: All right, Solicitor.

11 MR. DOWTIN: State calls Derrick Rash, Your Honor.

12 DERRICK RASH, having first been
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. DOWTIN:

16 Q Mr. Rash, can you please introduce yourself to the
17 jury?

18 A My name is Derrick Rash. I worked with the Greenwood
19 County Coroner's Office as Chief Deputy.

20 Q What does Chief Deputy mean?

21 A Combined experience of law enforcement background.
22 Studies, educational background.

23 Q And can you go into a little bit of your educational
24 background for us?

25 A Sure. Started my law enforcement career in mid '90s.

1 Started from patrol deputy. Worked all the way through the
2 investigations. I've gone through schools such as homicide
3 investigations and just regular detective school. Graduated
4 from there. Talk about degrees and things also?

5 Q Yes, sir. You can do that.

6 A Sure. Worked on my Criminal Justice degree when I was
7 -- in the beginning. Gone through a Bachelor's degree in
8 theology, Master's degree in theology. I'm currently a
9 National Certified American Death Board of Death
10 Investigator through the ABDMI is what is referred to
11 National Standard, and have been with the Coroner's Office
12 now for a number of years.

13 Q How long have you been with the Coroner's Office?

14 A Three years.

15 Q And what are some of your day-to-day responsibilities
16 with the Coroner's Office?

17 A Respond to anything above a natural case -- a natural
18 death. Anything from -- above hospices. I do everything
19 from photography, report writing, checking reports.
20 Anything to that degree.

21 Q So you had those same responsibilities back on November
22 15th, 2014?

23 A I did. Yes, sir.

24 Q Were you working on November 15th, 2014?

25 A I was on call. Myself and the Coroner himself are

1 always on call for anything above a natural. And since --
2 on that day this incident was above a natural. Both of us
3 respond at all cases like this for -- or just to make
4 quality-wise.

5 Q And do you recall responding to a collision --
6 automobile collision that occurred here in Greenwood, South
7 Carolina that evening?

8 A I do. Yes, sir.

9 Q And do you recall where that collision occurred?

10 A On 225 Bypass right on the curve right there shortly up
11 from the fairgrounds.

12 Q Do you remember about what time you arrived on scene?

13 A No, sir. I couldn't remember exactly what time it was.

14 Q Was it dark?

15 A It was dark. Yes, sir. It was dark.

16 Q Were there other people on scene when you got there?

17 A There was fire department that respond -- we get the
18 call usually after everyone has already arrived. So the
19 first responders, fire department, EMS, High Patrol. All
20 those were already out there. Roads had been blocked off
21 for security reasons.

22 Q Do you remember what the weather was like that evening?

23 A It was cold. It was cold. I forgot my jacket at home
24 and I remember it quite well.

25 Q And you kind of hit on this a minute ago, but did you

1 go to the scene by yourself?

2 A No. Myself and Coroner Cox was the ones that responded
3 this night.

4 Q And what was your responsibility when you got on the
5 scene?

6 A This night was no different. The normal was to be able
7 to get all the information when we first respond. Name,
8 where the deceased is, where our attention needs to be
9 focused. And once that initial contact is done usually the
10 EMS and the fire department, they meet us, along with law
11 enforcement, to be able to give us details. I then go get
12 the camera and I start photographing the scene while the --
13 while the Coroner also talks to the other individuals to get
14 more report or information. So my responsibility was to
15 take photographs and collect any type of evidence before
16 extraction.

17 Q Talking about the photographs, I mean, so what did you
18 observe on the scene?

19 A The two vehicles. The red truck was over to the
20 right-hand side of the vehicle -- I mean, of the road, and
21 the blue truck was to the left of the road. Both of them
22 were facing centered. Heavy damage to the -- to the red
23 vehicle on the front driver's side and the damage on it.
24 EMS had already extracted the -- from the blue vehicle, so
25 that most of the attention was over on that side. I

1 observed -- I observed the damage, began taking photographs
2 of those things. The deceased was still in the vehicle
3 whenever I -- we both arrived.

4 Q Going back to the vehicles. Do you recall what type of
5 vehicles were on scene, as far as the ones that were
6 involved in the collision?

7 A I don't know what make the red -- both of them were
8 trucks. I'm not sure what the red -- the make and model
9 was. The blue one was a Z. It was a Chevy vehicle. Z85, Z
10 -- I can't -- I remember seeing the picture of the logo on
11 the side of the truck.

12 Q Did they both appear to be newer trucks, older trucks?

13 A The red one was an older truck than the blue one. The
14 blue one was a newer -- a newer truck.

15 Q Did you approach the blue truck at any time?

16 A I did. While photographing the scene we start very
17 from very furthest and walk ourselves to the -- to the
18 vehicles and all the way around. We start from the furthest
19 out and move ourselves in. So yes, I was around both
20 vehicles.

21 Q Was the driver of the blue truck still on scene when
22 you got there?

23 A He was, because a helicopter had come in the roadway
24 and landed while we were working with the scene. And since
25 our -- our main thing is for the deceased we didn't deal

1 much with that.

2 Q And the deceased was in the red truck?

3 A Correct. Still pinned in the red truck.

4 Q And where in the red truck was he located?

5 A In the driver's seat.

6 Q And was there anybody else in the red truck when you
7 got on the scene?

8 A Not when we got on the scene. No, there wasn't.

9 Q So at that point when you locate the deceased in the
10 red truck what do you do next?

11 A Once the photographs are taken and all that is done we
12 work along with all the other agencies to get photographs
13 and certainly to that degree. Once that's taken care of we
14 give the okay for the first responders to extract, and then
15 the normal process that they do for extraction. Once --
16 once they extract the deceased we take more photographs and
17 then we place them in a bag and remove them from the scene.

18 Q Based on your training and experience, did you
19 determine a case of death?

20 A From all the other ones in his -- in his condition,
21 blunt force trauma was going to be the most reasonable cause
22 of death.

23 Q And did you help remove Mr. Cockrell from the truck?

24 A Yes, sir. I did.

25 Q And once Mr. Cockrell was removed from the truck what

1 happened next?

2 A We placed him in a body bag and placed him on the
3 stretcher, and then helped EMS put him in the back of an
4 ambulance so he could be transported to Self Regional's
5 morgue.

6 Q And did you transport him to Self Regional?

7 A I did not. We were still having to make contact with
8 the next of kin. So EMS and their personnel there, they
9 took care of him to take him to Self Regional.

10 Q And you went to notify next of kin of Mr. Cockrell?

11 A I did. Myself, Coroner Cox and along with a couple
12 Highway Patrolmen. We went to make notification of next of
13 kin, which would be the mother.

14 Q Thank you. After you notified the next of kin, was
15 that the end of your responsibilities or did you have to go
16 back to the morgue?

17 A We had to go back. After we were done at the scene,
18 Highway Patrol and law enforcement took care of the scene,
19 we went back to the morgue at Self Regional. At that time
20 is when we take our -- the samples for toxicology. That was
21 done, collecting all the evidence for toxicology reasons and
22 securing those. Once we do those things we take those back
23 to our office and log them into our evidence refrigerator
24 for save keeping until they're sent to SLED.

25 Q What all types of samples did you draw?

1 A On him there were two samples taken. There was blood
2 taken. Also there was visceral -- ocular fluid that was
3 taken and sent down to SLED.

4 Q And what is the purpose of doing that?

5 A It's to be able to show any type of -- any type of
6 drugs or alcohol inside their system.

7 Q And once you took those samples you said you sent them
8 to SLED?

9 A We took those and put them in our evidence refrigerator
10 at our office. And then the next day they were sent to -- I
11 believe it was the next day they were hand-delivered to SLED
12 for toxicology.

13 Q Was an autopsy ever done on Mr. Cockrell in this case?

14 A No, sir. Not on this case it was not.

15 Q Why not?

16 A When there's enough damage, when there's enough -- the
17 condition of the wreck to be able to show that the cause of
18 death being blunt force trauma an autopsy isn't required,
19 nor if it's -- if we don't see that one needs to be done,
20 one's not done.

21 MR. DOWTIN: Beg the Court's indulgence, Your Honor.

22 THE COURT: Sure. Take your time.

23 Q Mr. Rash, you said you helped get Mr. Cockrell from the
24 red truck?

25 A Correct.

1 Q Was it easy to get him out? Was it difficult to remove
2 him from the truck?

3 A It was extremely difficult. And I remember that night
4 due to the fact of the difficulty of it. In the extraction,
5 trying to take the metal out and stuff, it posed a problem.
6 It was -- he was wrapped around -- some metal had wrapped
7 around his legs area. And as the -- as the steering wheel,
8 and as this portion had come down on him, to move him from
9 that -- from that metal. It was a difficult extraction.
10 But yes, it was.

11 Q So steering wheel and dashboard were basically pressed
12 onto Mr. Cockrell's upper body?

13 A Yes.

14 Q And you referenced a piece of metal around his leg.
15 What exactly are you talking about there?

16 A The steering wheel had actually come to the side
17 because of the impact of it. The damage that was done to
18 the metal -- one of the metal pieces that I'm referring to
19 there was a -- a laceration to his left leg that -- it was
20 actually the parking brake to the vehicle. When the vehicle
21 had been crushed towards him it actually penetrated his leg.
22 That was one of the things that we had to -- had to work
23 around to be able to get him out because it was -- it was
24 the -- the push on with your foot type parking brake. It
25 wasn't one that was between. You take your left leg and

1 push the parking brake down. It was that one. That one was
2 around his leg, or that was causing them trouble getting him
3 out.

4 Q And do you recall approximately how long it took you
5 all to be able to get Mr. Cockrell out of the truck?

6 A No, sir. I couldn't tell you the exact minute. It was
7 -- it was probably 30 minutes or so.

8 MR. DOWTIN: Please answer any questions Defense
9 counsel may have.

10 THE COURT: Cross-examination?

11 MR. GARRETT: We have no questions. Thank you.

12 THE COURT: Thank you, sir. You can step down. You're
13 free to leave.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 MR. BLACK: Judge, may we approach briefly?

17 (Whereupon, a sidebar was held.)

18 MR. DOWTIN: State calls Derrick Oliver, Your Honor.

19 THE COURT: Okay.

20 DERRICK OLIVER, having been first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. DOWTIN:

24 Q Mr. Oliver, could you please introduce yourself to the
25 jury.

1 A I'm sorry?

2 Q Could you please introduce yourself to the jury?

3 A Derrick Oliver, paramedic with Greenwood County EMS.

4 Q How long have you been with EMS, Mr. Oliver?

5 A Coming up on five years now.

6 Q And can you tell the jury a little bit about your
7 training?

8 A At this point -- initially I did eight months of
9 training to get my basic EMT, and in 2015 I graduated from
10 paramedic school, which was about a year long.

11 Q What's some of the stuff you go through in paramedic
12 school?

13 A We do a lot of training in the hospitals. We're
14 required to do, I want to say, it's almost 300 hours
15 hospital time. And we also do training riding third person
16 on a truck responding to 911 calls.

17 Q And do you have a -- what would be your job title, I
18 guess? Do you have a rank, or how does that work?

19 A Well, currently I'm an assistant supervisor.

20 Q And can you discuss some of your day-to-day
21 responsibilities with EMS?

22 A At this point now I handle shift reports, scheduling.
23 If personnel need to be off I deal with that. Assist the
24 supervisor. When he's not there I run the shifts.

25 Q How about your responsibilities back on November 15th,

1 2014?

2 A At that point I was an AEMT. Advanced EMT. Slightly
3 less responsibilities than a paramedic, but I was still
4 allowed to do basic medications, IVs and stuff like that.

5 Q Mr. Oliver, do you recall work -- if you were working
6 on November 15th, 2014?

7 A Yes, I was.

8 Q And do you recall responding to an automobile collision
9 that occurred here in Greenwood, South Carolina resulting in
10 a fatality?

11 A Yes, I do.

12 Q Do you remember where exactly that wreck occurred?

13 A It occurred on -- it's Bypass 225, maybe less than a
14 quarter mile from 25 South.

15 Q Are there any landmarks there that kind of stick out?

16 A There's a Hot Spot right on the -- at the intersection.

17 Q How did you hear about the collision?

18 A Initially I was standing outside in the driveway and I
19 heard the explosion. I was outside smoking a cigarette and
20 I heard the explosion. And then as I was walking in the
21 building I heard the alarm go off for us to respond to an
22 MVA.

23 Q So if you heard the explosion I imagine you had to be
24 pretty close?

25 A It's pretty close. It didn't take us long to get

1 there.

2 Q Do you know approximately what time you arrived on
3 scene?

4 A I could tell you. Give me a second here. Let me find
5 our times.

6 Q What are you referencing right now, if you don't mind
7 me asking?

8 A This is DHEC. This is a patient care report. Anytime
9 we do any treatments to patients we're required by the state
10 to do a report for every patient that we touch.

11 Q And that's done night of? It was done the night of?

12 A Yes.

13 Q By you?

14 A This was done by my partner who was the paramedic at
15 the time, Larry Kidd. But both of us get together and
16 compare notes and he -- since he was the lead on the call he
17 wrote the report.

18 Q So both of you were actually part of the report,
19 creating the report?

20 A Yes.

21 Q Okay.

22 A The times. This is actually missing -- it's missing a
23 sheet, I believe.

24 THE COURT: Solicitor, if you want to hand him what
25 you've got. If his copy is missing a page, give some help

1 to him.

2 A I'm not seeing it on here. The page I'm referencing
3 deals with -- for every call that we generate dispatch gives
4 you a time that they call you. They give you a time that
5 you're go en route and a time that you arrive on scene. And
6 if you transport a patient, a time you transport them and a
7 time you get to the hospital and all of that.

8 Q So, I mean, but when you got on scene were you the
9 first person there?

10 A We were the first unit there.

11 Q And, I mean, it was nighttime when you got there?

12 A Yes.

13 Q So I guess when you got on scene kind of tell us what
14 you observed when you arrived on the scene.

15 A When we initially arrived on scene it was early in the
16 accident, because it still had the cloud of smoke in the
17 air. My partner and I, we split up. We did what's called a
18 rapid triage. I went to the -- the dark colored vehicle, he
19 went to the red one, and we met back in the middle to let
20 each other know what we had.

21 Q What's a rapid triage?

22 A Basically a rapid triage is when you arrive on scene
23 you determine how many patients you're dealing with and what
24 extra assets you need. After we did that I called for two
25 rescue trucks, helicopter. Also called for other backup

1 units since we had critical patients in two separate
2 locations.

3 Q And you spoke of you and your partner making an
4 assessment of the trucks. What was your assessment of the
5 people in the trucks?

6 A He went to the red vehicle. When I --

7 Q Your partner went to the --

8 A My partner, I'm sorry, went to the red vehicle. I went
9 to the blue vehicle to determine to see if anyone was alive,
10 hurt, or whatever the case may be. I found the driver
11 unresponsive. I only knew that he was alive because I
12 palpated a carotid pulse, which is the beat in the neck, and
13 he had one.

14 Q Do you remember anything about the colors of the
15 trucks?

16 A I know the one I went to was dark. I think it was dark
17 blue. I know the other one was a red vehicle. It looked
18 like a smaller pickup truck.

19 Q So you checked on the condition of the driver in the
20 blue truck?

21 A Correct.

22 Q What kind of condition was he in?

23 A He was unresponsive. Kind of slumped over on the
24 steering wheel. I checked his pulse. Tried to wake him up.
25 Initially all he said to me was help me. I went back, told

1 my patient we had one in this vehicle. I wasn't sure if
2 there was anyone else. He didn't really answer any
3 questions for me, so...

4 Q What did you do to assist the driver of that truck?

5 A Initially once we finished talking and we call for
6 backup and other assets I went around to the passenger side
7 and I climbed in the vehicle with him, and then I took
8 what's called spinal mobilization. I had his -- I held his
9 neck up, sat him back in the seat. That's when I noted that
10 he had the dashboard sitting on his lap basically.

11 Q So he was trapped behind the steering wheel?

12 A He was trapped.

13 Q And why did you not go in the driver's side door?

14 A I couldn't get the door open.

15 Q So you actually hopped up into the passenger side --

16 A Yes.

17 Q -- and were in the truck with the driver?

18 A Yes.

19 Q Are you able to -- do you recall the name of that
20 driver?

21 A No. Initially I didn't need to know the man's name
22 until, I think, he got into the helicopter. So at that
23 point I really wasn't concerned with what his name was.

24 Q Would you be able to identify that driver if you saw
25 him?

1 A I couldn't tell you.

2 Q About how many -- how many people do you help a year?

3 A Hundreds. We run thousands of calls a year. We're

4 averaging about 15,000 calls a year. I mean --

5 Q So you see a ton of faces?

6 A Yeah, on a regular basis.

7 Q But going back to you getting in the blue truck, how

8 close did you get to the driver of the blue truck? About

9 right here?

10 A No, I was close than that.

11 Q About right here?

12 A I was sitting right next to him holding his head like

13 this.

14 Q Did you observe anything in particular as far as smell

15 when you -- when you got next to the driver?

16 A Yeah. Every time he said help me I could smell alcohol

17 on his breath.

18 Q So you smelled alcohol coming from his breath?

19 A Yes.

20 Q I guess taking it a step back. When you approached the

21 truck, or actually went to get in the truck, did you smell

22 alcohol then?

23 A You could smell an odor, but it wasn't that strong. It

24 didn't get as bad until I actually climbed in the vehicle.

25 Q But there is no doubt in your mind when he spoke you

1 smelled an alcoholic beverage coming from his breath?

2 A There is no doubt.

3 Q And as you already said, you did fill out a report
4 regarding this incident?

5 A Yes. My partner did it. We both signed the reports
6 when they're completed.

7 Q I'm going to show you the report I have here.

8 MR. DOWTIN: Beg the Court's indulgence, Your Honor.

9 THE COURT: Sure.

10 MR. DOWTIN: Your Honor, we have a matter of law.

11 THE COURT: Can we discuss it sidebar or do we need to

12 --

13 MR. DOWTIN: I believe we can, Your Honor.

14 THE COURT: All right.

15 (Whereupon, a sidebar was held.)

16 (Where, Court's Exhibit No. 8 was marked for
17 identification.)

18 Q Mr. Oliver, I'm going to show you what's been marked as
19 Court's Exhibit No. 8. Can you tell me what that document
20 is after you've had a chance to look at it?

21 A This is our DHEC's -- our patient care reports.

22 Q And what is that exactly?

23 A And this is the report that we do on every patient that
24 we lay hands on.

25 Q Is that the report you did for this case?

1 A Yes, it is.

2 Q And when was that report completed?

3 A It's November 15th, 2014.

4 Q Is that something you keep in the ordinary course of
5 business? Something you all do after responding to --

6 A Yes.

7 Q Is there a specific portion of that document that
8 refers to whether any alcohol was indicated?

9 A There is. We have it -- I'll find it here. There's a
10 drop-down which asks if you smell -- if you smell alcohol.
11 If the patient admits to alcohol. There's also a drop-down
12 for drug use. If the patient admits to drug use, or both,
13 or if there is paraphernalia on scene.

14 Q What do those boxes indicate?

15 A For evidence of impairment, yes, and altered mental
16 status yes.

17 Q And how about the first page of the document where you
18 were referring to alcohol? What does that box indicate?

19 A Smell of alcohol on breath.

20 Q Smell of alcohol coming from the Defendant's breath?

21 A Correct.

22 Q Was there anyone else in the truck with the Defendant
23 that night that you saw?

24 A We had the fire department on the left side, one fire
25 -- one fireman took control of C-spine. He was holding his

1 neck with the collar on it while I was trying to establish
2 an IV.

3 Q Ultimately what happened with the Defendant that night?
4 Did you get him out of the truck?

5 A They -- the fire department ultimately -- they cut the
6 door off. Cut the roof off. I was in the vehicle with the
7 patient. I basically covered him up, as well as myself. I
8 had put on gear and all that before they started all that.
9 You know, had a helmet and all that stuff on. And then they
10 cut him out, and then collectively we all slid him out of
11 the driver's side.

12 Q And where was the Defendant taken, do you know?

13 A We rolled him from the -- from his vehicle to the
14 helicopter that was waiting in the middle of the highway.

15 Q So a helicopter came and the helicopter actually took
16 him to the hospital?

17 A Correct.

18 Q Did you assist anyone in the red truck?

19 A After we turned him over to the flight crew we went
20 back and extricated the patient that passed away.

21 Q Did you notice the passenger in the red truck or was he
22 already gone?

23 A He was already gone at this time.

24 Q Mr. Oliver, can you think of anything else I may have
25 left out that you feel would be important?

1 A No, not off the top of my head.

2 MR. DOWTIN: Beg the Court's indulgence.

3 THE COURT: Sure.

4 Q Mr. Oliver, I'm going to show you what's been marked as
5 Defendant's Exhibit No. 1. Will this help you determine
6 what time you arrived on scene that night?

7 A Oh, there we go. Yes. We arrived at 19:23 hours. We
8 were dispatched at 19:21 and 19:23 we were on scene.

9 Q And can you step down, please, for a second?

10 A Sure.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 THE COURT: Make sure you speak loud enough since
14 you're away from the microphone, sir.

15 THE WITNESS: Yes, sir.

16 Q Can you please indicate on here where exactly Medic 30
17 is at, or approximately?

18 A Right here.

19 THE COURT: You need to speak up, sir.

20 THE WITNESS: I'm sorry.

21 A Right here.

22 Q So approximately how far from the Hot Spot is Medic 30?

23 A Maybe half a mile.

24 Q And this is Medic 30 right up here?

25 A This is Medic 30 right here.

1 (Whereupon, the witness returned to the witness stand.)

2 Q And approximately how long did it take you to get to
3 the scene from Medic 30?

4 A About two minutes.

5 Q And do you recall the sound of the crash? Can you
6 describe it?

7 A It was -- it sounded like an explosion. I really
8 didn't wrap my head around it until the tone went off, and
9 then when they called out the location I knew exactly what
10 it was.

11 Q And going back to you being in the truck with the
12 Defendant helping him out, how long were you in the truck
13 with him?

14 A Until they took him out. I was in there -- let's see.
15 We got there at 23. Let's see, 25. I was in there maybe --
16 from three minutes after we got there I climbed in the
17 vehicle and I was there until we were able to cut him out. I
18 stayed in there the whole time. When they cut the roof off,
19 everything, I was there with him the whole time.

20 Q So are we talking about 30 minutes, an hour, five
21 minutes?

22 A Extrication time took roughly -- it may have been 30
23 minutes. I'm not sure of the time.

24 Q So you were in close contact with the Defendant for
25 approximately 30 minutes --

1 A Yeah.

2 Q -- in the truck with him, right next to him, and you
3 smelled alcohol coming from his breath?

4 A Yes, sir.

5 MR. DOWTIN: Please answer any questions Defense
6 counsel may have.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY MR. GARRETT:

10 Q Do you know Tierra Boyer?

11 A Tyra Boyer. Yes, sir.

12 Q Tyra Boyer?

13 A Yes.

14 Q Tell the jury please who Tyra Boyer is.

15 A She's a nurse at Self Regional. She used to be an
16 intermediate EMT that worked with us.

17 Q And did Tierra help you that night?

18 A She --

19 Q She said -- well, did you -- did you have somebody
20 assist you by doing something called bagging the patient?

21 A We put him on a non-rebreather mask. We had an oxygen
22 tank which was coming from the outside and we ran a line all
23 the way into his face.

24 Q And who -- who assisted you with that?

25 A Let me see. My partner was there, my supervisor was

1 there, the crew chief was there, Tyra and her partner was
2 there. I couldn't really tell you off the top of my head
3 exactly who was doing what. I was just focused on the
4 patient.

5 Q And I know this is a long time ago. Is there any way
6 you all moved him from the car to another location while you
7 were waiting on the helicopter to get there?

8 A No. The helicopter got there before we got him out of
9 the car.

10 Q Okay. And did you stage him anywhere to get him staged
11 up to put him onto the helicopter?

12 A We had the stretcher laying right next to the -- his
13 vehicle. Once we got him out we put him right on the
14 stretcher, established our IVs and rolled him straight to
15 the waiting helicopter.

16 Q You all were unable to get an IV on him inside the car;
17 is that correct?

18 A Right.

19 Q Do you recall --

20 THE COURT: Wait a minute. Let him verbally give an
21 answer.

22 A That's correct, yeah.

23 Q Do you recall Tierra trying to help you get that vein
24 or try to get an IV started on him?

25 A It's possible. I can't remember what exactly anyone

1 else did.

2 Q Well, just because somebody smells of alcohol, that in
3 and of itself doesn't mean they're under the influence, does
4 it?

5 A No, it doesn't.

6 Q And if a person has had a concussion as a result of the
7 accident, you would not expect that person to be alert and
8 oriented, would you?

9 A Correct.

10 Q And are you aware that he, in addition to broken ribs,
11 lacerated liver, and his small intestines had been torn
12 apart, he was bleeding inside at that time? Were you aware
13 of that?

14 A No.

15 Q And are you aware that when you all were trying to give
16 -- give him saline, or trying to give him some fluids and
17 whatnot, do you recall simply being unable to do it in the
18 car itself?

19 A Yes.

20 Q Did you all finally get it when you got him out of the
21 car? Did you finally -- then able to get the IVs in him?

22 A Yes.

23 Q And what did you all give him on the scene?

24 A I believe all he had was regular saline.

25 Q I notice some blood in the passenger seat. This is

1 Defendant's Exhibit No. 2. Does that blood likely to have
2 come from where you all were trying to stick him?

3 A No.

4 Q That's not blood, you don't think?

5 A Not that I -- no. I didn't see any gross hemorrhaging
6 from him. When I -- when I stuck him he didn't bleed at
7 all. His pressure was so low I couldn't feel a pulse.

8 Q And that would be consistent with internal bleeding,
9 his pulse was so low?

10 A Well, at the time I couldn't determine. I know his
11 legs were pretty mangled, so I could only make the
12 assumption that he was bleeding pretty good in his legs. As
13 for abdomen I couldn't tell you. He just -- his pressure
14 was just so slow that --

15 Q His pressure was so low. And your saving technique is
16 to try to get some saline in and try to build up his
17 pressure?

18 A Right.

19 Q And thank you for doing that. And that's what you did
20 on this occasion?

21 A Correct.

22 Q Now, his pupils I notice were okay. Did you look at
23 his pupils?

24 A No, not that I can tell. Not that I can think of, no.

25 Q Let me look at that --

1 A The report?

2 Q Yeah.

3 A Is this the one you have?

4 Q I believe that's it. No, that's the CAD report. May I
5 see this one? This is --

6 THE COURT: The one that's been marked as Court's
7 exhibit, I think --

8 MR. GARRETT: It's a Court exhibit?

9 Q You all were over there right in front of Augusta
10 Fields; is that right?

11 A Our station?

12 Q Yeah.

13 A Yes, sir. I grew up right there. Yes, sir. This --
14 if I'm not mistaken, this is me. I can't remember.

15 Q That's you what?

16 A I think -- because I believe I had gotten injured in
17 that, too.

18 Q That was you bleeding there?

19 A It may have been. Who knows.

20 Q I was looking down there and it said patient's pupil
21 are equal and reactive to light.

22 A Okay.

23 Q And what does that mean?

24 A Meaning if you shine a light in a person's pupils --
25 when he's saying equally is if you shine a light in the

1 right side, the left side will move. If you shine one in
2 the left side, the right side will move.

3 Q And his were doing fine?

4 A I couldn't tell you. I didn't assess that.

5 Q Who assessed that?

6 A That might have been my partner. This is a, you know

7 --

8 Q A joint effort.

9 A A joint effort.

10 Q I'm with you. That was why I was asking the question.

11 A All right.

12 Q Thank you very much.

13 MR. GARRETT: Thank you for coming and thank you for
14 your service.

15 THE COURT: Any redirect?

16 MR. DOWTIN: Just briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. DOWTIN:

19 Q Can you talk a little bit about the Defendant's
20 breathing when you got in the truck with him?

21 A It was -- his breathing -- I really can't remember off
22 the top of my head. But in that state I would safely -- you
23 know, it would be safe to assume -- consistent with his
24 injuries it was probably rapid and shallow. Like I said,
25 initially when I approached him I thought he -- he had

1 passed myself. It wasn't until I felt his pulse, you know.
2 That's when I determined he's still alive. We had to do
3 something, so...

4 Q But you know what an alcoholic beverage smells like?

5 A Yes.

6 Q What alcohol smells like?

7 A Yes.

8 Q And there's no doubt in your mind you smelled alcohol
9 coming off the breath of the driver of that truck that
10 night?

11 A There's no doubt.

12 MR. GARRETT: Objection, Your Honor.

13 THE COURT: All right. Recross?

14 RECROSS-EXAMINATION

15 BY MR. GARRETT:

16 Q I'm interested in another little point in that document
17 there. It said patient's breathing is normal but shallow.
18 Skin is cool and pale. Was that your partner that did that
19 one, too --

20 A That's probably --

21 Q -- saying his breathing was normal?

22 A That's probably him. It's shallow.

23 Q I know. But you said its normal but shallow.

24 A Uh-huh.

25 Q And that wasn't you? That was your partner?

1 A That's my partner.

2 MR. GARRETT: That's all I have.

3 THE COURT: You can step down, sir. Thank you very
4 much.

5 THE WITNESS: Thank you.

6 (Whereupon, the witness stepped down from the witness
7 stand.)

8
9 THE COURT: All right, Solicitor. I think based upon
10 our sidebar conference that will be -- will be it for the
11 day.

12 MR. BLACK: Yes, sir. Your Honor.

13 THE COURT: All right. Mr. Foreman, ladies and
14 gentlemen of the jury, you worked hard today, and I
15 encourage you to get a good night's rest and we'll start
16 back -- we're going to try to start back at 9:15 in the
17 morning, so be here bright and early. Allow yourself enough
18 time to take care of anything unexpected. Have a good
19 evening. Again, no discussion among yourselves or anybody
20 you come into contact with. No independent research on your
21 own. And we will see you here at 9:15 in the morning. Have
22 a good evening. Anything in the jury room you're certainly
23 welcome to go back to get it.

24 (Whereupon, the jury was released at 5:17 p.m.)

25 THE COURT: Appreciate everybody's hard work and we'll

1 see you in the morning at 9:15.

2 TRIAL DAY 3-02/15/17

3 (Whereupon, States Exhibit Nos. 23 through 60 were
4 marked for identification.)

5 THE COURT: Good morning everybody. Hope everybody's
6 well. Anything on the record before we bring the jury out?

7 MR. BLACK: Nothing from the State, Your Honor.

8 THE COURT: The Defense?

9 MR. GARRETT: Nothing from the Defense, Your Honor. We
10 have premarked some photographs for this next round, and we
11 have the same objections, Your Honor, as to beer and beer
12 bottles and whatnot. We have numbered those. So if you
13 want us to do that now or --

14 THE COURT: Yeah, let's go ahead and put on the record
15 -- go ahead and put that on the record now.

16 MR. GARRETT: Your Honor, apparently there is -- his
17 new documents are 23 through 60, and the ones we are
18 objecting to are 38, 39, 40, 41, 42 and 43 for the same
19 reasons we had previously objected, Your Honor, to any
20 alcohol or beer cans or whatever.

21 THE COURT: Can you give me those numbers again, if you
22 can, please.

23 MR. GARRETT: Yes, sir. 38, 39, 40, 41, 42, 43. Six
24 of them, Your Honor. The rest of them we don't have any
25 problem.

1 THE COURT: Very good. So noted for the record. Let's
2 bring the jury out, please.

3 (Whereupon, the jury entered the courtroom at 9:27
4 a.m.).

5 THE COURT: Let the record reflect the jury is back in
6 the courtroom. Solicitor, you may call your next witness.

7 MR. BLACK: Thank you, Your Honor. State calls Larry
8 Kidd to the stand.

9 LARRY KIDD, having first been duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BLACK:

13 Q Mr. Kidd, can you please introduce yourself to the
14 jury, please.

15 A I'm Larry Patrick Kidd.

16 Q And, Mr. Kidd, where do you work?

17 A I work for Greenwood County EMS.

18 Q And what is your -- what is your job at Greenwood
19 County EMS?

20 A I'm an EMT, paramedic.

21 Q How long have you worked for them?

22 A For seventeen years.

23 Q Seventeen years? When did you start working for them?

24 A From January the 10th, 2000.

25 Q And have you always -- what was the position that you

1 hold there again?

2 A Paramedic.

3 Q And have you always been a paramedic for them?

4 A No.

5 Q What else have you done for them?

6 A I've been EMT basic for a time, and then I got my
7 intermediate level, and then I advanced to the paramedic
8 level in 2006.

9 Q 2006 you became a paramedic?

10 A I did.

11 Q Can you talk about the training that you got while you
12 were kind of moving up the progression there?

13 A Well, the schooling is -- for the first level is about
14 six months. Second level was a little bit less than that,
15 about three or four months. And the paramedic, the
16 schooling for that was about one year. But during that time
17 you build a lot of experience working in the field. So me
18 starting in 2000 and getting my paramedic in 2006, that gave
19 me a lot of experience to build on. Yeah, so it made being
20 a paramedic much easier. Which it's not always easy, but it
21 was easier having that experience, those years to build
22 upon.

23 Q As a paramedic what kind of responsibilities and duties
24 do you have?

25 A Well, when we go out to see patients when they call 911

1 we have a responsibility to, you know, assess them and treat
2 them to the best of our ability and the best of our
3 training.

4 Q Do you remember -- you were working for -- you were a
5 paramedic back on November 14th of 2015?

6 A Yes.

7 Q Were you working that evening?

8 A Yes.

9 Q Do you remember what your shift was that day? Was it a
10 24 hour shift?

11 A Yes, we work 24 -- it was 24.

12 Q When do you all start? In the morning or start at
13 night?

14 A We start at 7:00 a.m.

15 Q 7:00 a.m. to 7:00 a.m.?

16 A Right.

17 Q Do you remember responding to an automobile collision
18 that resulted in a fatality that day?

19 A I do.

20 Q Where was that at?

21 A That was just right passed the Hot Spot on the -- I'm
22 not sure what that road is. You go down 25 South and take a
23 right there at the Hot Spot, and just shortly passed the Hot
24 Spot that's where the accident was.

25 Q And at this -- this collision, did it result in a

1 fatality?

2 A It did.

3 Q Where -- what station were you working for at the time?

4 A I was at Medic 30.

5 Q And where is Medic 30 at?

6 A Medic 30 is located in Highway 25 South here in
7 Greenwood.

8 Q Is it near that Hot Spot?

9 A It is.

10 Q How close is Medic 30 to where the scene of the wreck
11 was that day?

12 A Probably only a couple of miles. Maybe two miles, two
13 and a half miles.

14 Q At the most?

15 A Yeah. I mean, I don't know for sure, but it's not very
16 far.

17 Q So it wouldn't have taken you all very long to get
18 there?

19 A No, it wouldn't have.

20 Q Do you remember responding to the scene that day?

21 A I do.

22 Q Do you know about what time you all got there?

23 A I don't -- I don't have the --

24 MR. BLACK: Your Honor, may I approach the witness?

25 THE COURT: Sure can.

1 Q I'm going to hand you what's been marked as State's No.
2 1 and put into evidence. Do you know what that is?

3 A Okay.

4 THE COURT: I think that is Defense 1, Solicitor.

5 MR. BLACK: Defense 1. I apologize, Your Honor.

6 THE COURT: That's all right.

7 A Only thing that -- 7:23:56.

8 Q So about 7:23 that evening, that's when you all
9 arrived?

10 A Yes.

11 Q Were you all the first emergency responders to arrive?

12 A We were.

13 Q Do you have a partner?

14 A I do.

15 Q And who's your partner?

16 A My partner that day was Derrick Oliver. We have
17 different partners, you know, every time we work just about.

18 Q So you all responded together?

19 A We did.

20 Q And you all were -- what are you all driving? An
21 ambulance of some sort?

22 A We were in the ambulance.

23 Q Who was driving?

24 A I actually don't remember.

25 Q Can you kind of -- can you describe to the jury what

1 you -- what you first saw when you got to the scene that
2 day?

3 A When we -- when we arrived there at the scene we
4 noticed two vehicles with extensive damage. Mostly front
5 end damage, both vehicles. And we had already -- dispatch
6 you can kind of -- a lot of times when we get dispatch you
7 can tell in their voice when -- when they feel like
8 something -- you know, you just -- you can just sense it in
9 their voice. We kind of went on and -- I went on and got
10 some backup heading that way, because when they said
11 front-end collision that can always be bad. And then I
12 could -- I could -- I remember hearing the -- the urgency in
13 their voice, so we were -- we were on our toes really. But
14 when we got there we noticed the severity of both vehicles
15 and we got out and started doing a rapid triage.

16 Q Can you explain to the jury what a rapid triage is?

17 A A rapid triage is when you -- you assess the situation
18 that you have at that given time. You assess the number of
19 patients that you -- that you have. You assess the extent
20 of injuries of those patients. At that particular time
21 you're not treating patients. You're just finding out what
22 you have. And so you can see a priority patients, and you
23 can also, you know, arrange for additional resources based
24 on that knowledge you obtain from the triage.

25 Q And then once you did this triage, once you got this

1 initial assessment, what did you -- what did you do?

2 A Well, we did the triage, and then by the time we were
3 triaging the patient in the darker -- darker truck Medic 10
4 had arrived on scene.

5 Q I guess the better question is what did you -- what did
6 you learn? What did you find out from the triage? What did
7 you assess at the scene?

8 A When we arrived on the scene we -- the first patient we
9 went to was the -- was the driver of the -- of the red
10 vehicle. And at that time he was deceased. He was
11 pulseless, was not breathing.

12 Q Was this your observation?

13 A It was mine, yes.

14 Q What did you do after that?

15 A Then we turned out attention then to the second patient
16 in that vehicle which was the passenger. He was alert and
17 oriented. He had injuries to the leg. Breathing was -- you
18 know, it appeared to be normal at that time. So we, you
19 know, made mental note of his condition. And then at that
20 time we moved to the darker vehicle.

21 Q And once you moved to the darker vehicle did you stay
22 treating that particular individual?

23 A Well, at first we did that rapid triage, but then by
24 the time we really saw what we had, the other truck that --
25 we directed them to the other -- the passenger from the red

1 vehicle. And so, then we assumed total care of the patient
2 in the dark -- darker truck.

3 Q The other truck, who was in that truck?

4 A Absolutely I would have to look on here to tell you his
5 name. I didn't know him before this. I think the only time
6 I've ever --

7 THE COURT: I think it can be stipulated who was in the
8 dark --

9 MR. GARRETT: We'll stipulate, Your Honor, that --

10 THE COURT: Mr. Rowell was in the dark truck.

11 A Yeah. I'm looking for his name, but -- yeah, it --

12 Q My question was -- the question that I was asking was
13 the other EMS crew that showed up, who -- who was that?

14 A Oh, the other EMS crew? That was Medic 10. That was
15 Wen and Bobby Hill.

16 Q And Wen is Ms. Prestel?

17 A Yes.

18 Q And so, they treated the individuals in the red truck
19 --

20 A They did.

21 Q And then you all turned your attention to the darker
22 truck?

23 A Right.

24 Q When you got to the darker truck what did you all do
25 when you all were treating that individual?

1 A Well, he was severely entrapped basically from the
2 waist down. The impact had pressed the truck -- the dash
3 and all against him. He was severely entrapped. So we --
4 Derrick, he got in the vehicle with the patient and started
5 assessing him and everything. And I was just right outside,
6 you know. We both -- we both couldn't fit in there anyway.
7 But Derrick got in with him.

8 Q How did Derrick get in?

9 A I mean, I don't remember. I mean, he --

10 Q Did he go through -- which side -- which did he get in?

11 A I actually really don't remember which side, but -- but
12 I know Derrick got in there with him. And we was
13 conversing, you know. We was letting each other know what
14 the condition and what respiratory rates and, you know,
15 blood pressure and --

16 Q So you all were conversing during this time you were
17 there?

18 A The whole time. We were. We were.

19 Q Okay. I'm going to show you what's been marked as
20 Court's No. 8. Do you recognize that document?

21 A Yeah.

22 Q And what is that document?

23 A Well, this is provided by DHEC that lists the vital
24 signs and all that and what treatments that we've perform.

25 Q Is this -- this is an EMS report essentially?

1 A It is.

2 Q And who -- who made this report?

3 A I did.

4 Q You actually wrote this report up?

5 A I wrote this report.

6 Q In your report it looks like at the top on the right
7 side -- do you see that? The first page, the top-hand
8 portion?

9 A Where at?

10 Q The first page.

11 A The first page you just handed me?

12 Q Yes, sir. On the right-hand side.

13 A Right-hand side.

14 Q Do you see that the clinical -- I guess clinical
15 impressions?

16 A Yes.

17 Q Okay. There's a -- you noted something on drugs and
18 alcohol; is that right?

19 A We do with every patient. It's a section we have to
20 fill in for every patient.

21 Q And while treating -- while treating Mr. Rowell in this
22 case do you remember smelling the odor of alcohol?

23 A I did once we -- once we got in the ambulance. From
24 where I was at -- from where I was at outside the vehicle I,
25 you know, was not close enough at that time. But I did once

1 we got inside the ambulance we was in that closed area I
2 did.

3 Q And what were you doing inside the ambulance?

4 A Inside the ambulance, by that time we had him
5 immobilized. This was sometime later. I mean, it took
6 approximately 38 minutes to extricate him. But in the
7 ambulance we were obtaining IV access. And his condition
8 was deteriorating rapidly at that time. And so,
9 respirations had dropped and we had to assist ventilations
10 with BVM because he was not adequately breathing for
11 himself. So at that time most our efforts were, you know,
12 just doing what we had to do to -- for his survival.

13 Q You all were trying to get him to breath essentially?

14 A Well, we was actually bagging him, breathing for him.
15 He was breathing but he wasn't breathing adequately, so we
16 gave him something -- respirations to --

17 Q And this was -- you said this was in the ambulance?

18 A This was in the ambulance. We gave him oxygen in -- in
19 the vehicle before he got extricated, but we also -- he also
20 had oxygen and BVM ventilations in the ambulance.

21 Q Once he was put in the ambulance where did you all take
22 him?

23 A Well, once we put him in the ambulance and we
24 established the IV and got him stable as we could get him at
25 that time, we transported him, but just a very short

1 distance, to a landing. The helicopter had landed and the
2 flight crew came and got in the back of the ambulance. And
3 that's, you know, standard, customary when we fly somebody
4 out. They got in the back of the ambulance and then, you
5 know, I gave them a verbal report of everything I knew about
6 the patient.

7 Q Yes, sir.

8 A And everything that we had done and, you know, have had
9 to done -- had to do. And then basically at that time they
10 assumed care of the patient. And then they wanted to do
11 rapid sequence intubation at that time since we were having
12 to bag him. So that basically he was intubated in our
13 ambulance. Basically because in the helicopter there's not
14 enough room to do like that. You know, it's just like the
15 invasive procedure, so it was done in the helicopter -- I
16 mean, the ambulance. They did it. And then after that we
17 helped load him onto the helicopter and he was flown to the
18 trauma center.

19 Q And that's the helicopter that you had called when you
20 basically first got there?

21 A Right.

22 Q And in your report you did note that you smelled
23 alcohol from his breath; is that correct?

24 MR. GARRETT: Asked and answered.

25 THE COURT: I mean, he can -- as a foundation to

1 something else I'll allow it. Go ahead.

2 Q And this is the report that you wrote?

3 A It is.

4 Q When did you write this report?

5 A I wrote it that -- later that night.

6 Q Okay. So while it was still fresh on your memory?

7 A Yes. Yes.

8 Q Is that standard kind of protocol that you guys do?

9 A It is.

10 Q As soon as you all treat somebody you write the report?

11 A That's -- it doesn't always happen that way.

12 Q If you get another call or something?

13 A Right, right. But that's -- that's the way they want
14 it to happen.

15 Q Do you remember if you all got another call after this
16 or --

17 A I don't remember. I don't remember.

18 Q How long -- you all were out there for a pretty good
19 while?

20 A We were out there for a while.

21 MR. BLACK: May I approach, Your Honor?

22 THE COURT: Sure.

23 MR. BLACK: Your Honor, at this point the State moves
24 Court's No. 8 into evidence.

25 MR. GARRETT: Without objection, Your Honor.

1 THE COURT: All right. Without objection Court's 8
2 will now be --

3 MR. GARRETT: Your Honor, beg the Court's indulgence
4 just one moment.

5 THE COURT: Oh, okay. All right.

6 MR. GARRETT: Your Honor, may we approach?

7 THE COURT: Sure.

8 (Whereupon, a sidebar was held.)

9 THE COURT: So Court's No. 8 now will become State's
10 23?

11 MR. DOWTIN: I think it will be 61, Your Honor.

12 THE COURT: All right. 61 into evidence for the State.

13 (Whereupon, State's Exhibit No. 61 was admitted into
14 evidence.)

15 THE COURT: And ladies and gentlemen, on this
16 particular report that's in evidence, a Social Security
17 number, date of birth have just been marked out. So if you
18 see something marked out don't place any significance to
19 that. Just the identifying information has just been taken
20 out.

21 Q Just briefly, doing back to the triage, Mr. Kidd. When
22 you first assessed the situation you made contact with the
23 driver of the red truck; is that right?

24 A Yes.

25 Q And what did you learn from that? What did you do?

1 A Well, we checked for a carotid pulse.

2 Q Yes.

3 A He did not have one.

4 Q We assessed the breathing and there was no breathing.

5 At that particular time we moved to the second patient in

6 that vehicle.

7 Q And you reported that Mr. Cockrell was dead at that
8 point?

9 A Well, I didn't -- I mean, I made a mental note that --
10 that, you know.

11 Q Yes, sir.

12 MR. BLACK: Please answer any questions Mr. Garrett
13 might have for you.

14 THE COURT: Cross-examination.

15 MR. GARRETT: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. GARRETT:

18 Q On behalf of my client, thank you. You saved his life.

19 Let me ask you. I've read that same report that they've

20 handed you. Do you have the report?

21 A Yes, sir.

22 Q You got it in your hands up there?

23 A I got --

24 Q I'm going to let you hold the original now. This is

25 the one that's been put into evidence, so we'll all be on

1 the same page. There were other EMS people -- once you all
2 got him out, instead of taking him directly to the
3 helicopter isn't it true that you got him out and you put
4 him in the back of the ambulance?

5 A Well, when we initially got him out -- we already had a
6 C-collar on him.

7 Q Right.

8 A We already had a C-collar. When we initially got him
9 free --

10 Q Right.

11 A -- from the vehicle then he was placed on a long spine
12 board, and then with straps and head blocks, and then placed
13 on a stretcher and then loaded into the ambulance.

14 Q I guess my question is then, in other words, he didn't
15 go directly from the car just straight into the helicopter?

16 A No.

17 Q You guys had to -- had to follow your protocol, get him
18 on a stretcher, get him secure, and then take him into the
19 back of the ambulance to start working?

20 A Right.

21 Q And as I understand it, at some point in time his -- he
22 was going south?

23 A He -- shortly after we -- shortly after we got him in
24 the back of the truck his respiration started to
25 deteriorate. His level of consciousness was -- you know, he

1 was aware we were there from the beginning, but his level of
2 -- he never really was able to answer questions. But then
3 his respiratory rate and all started to deteriorate and all.
4 So yeah.

5 Q And, so initially his breathing was normal?

6 A Well, it was more -- a lot more normal than it was at
7 that time, but it was still -- it was still not normal like
8 -- you know, like right now. But it was shallow and -- but
9 it was -- it was a lot better than it was at that later
10 time.

11 Q Right. So it went downhill?

12 A Right.

13 Q So while he was in the car it was pretty normal. It's
14 not unusual though when you pull something off of somebody's
15 chest, if they've got broken ribs and whatnot that sometimes
16 by relieving that, that'll put extra pressure on their lungs
17 --

18 A Yeah.

19 Q -- internal cavities?

20 A Yeah. There's a lot of instance where people have been
21 the condition deteriorated.

22 Q Now, I noticed in your report nowhere did you say you
23 saw any beer bottles or anything like that in the vehicle?

24 A No, I did. I was not in the vehicle.

25 Q Now, this Tiera Boyter, I've spoken to her. Another

1 EMS. Tell me who Tiera Boyter is?

2 A Tiera Boyter?

3 Q Yeah. Do you remember her that night?

4 A I don't know. What --

5 Q Somebody assist you bagging her -- or bagging him?

6 A Oh, okay. It may have been an employee we had at one
7 particular time.

8 Q At the time, okay.

9 A Yeah.

10 Q And so, if -- once you all got him out of the car onto
11 the board you got him into the back of the ambulance --

12 A Uh-huh.

13 Q -- as I recall you said his breathing went south and
14 you all had to -- I think you said in direct examination
15 that you had to BV --

16 A What's called bag-valve mask.

17 Q BVM?

18 A BVM.

19 Q Okay. So somebody would have to get right on top of
20 him and pretty close to him, wouldn't they?

21 A They would have to.

22 Q Would you say that that person was closer to him than
23 you were?

24 A No, I wouldn't.

25 Q So you got pretty close to him --

1 A I got pretty close him, too, yeah. Yeah, we have to.

2 Q Now, and of course, you can have difference of opinions
3 about what you smell and what you don't smell.

4 A Right.

5 Q And you're not telling the jury that based upon the
6 smell that he was under the influence of alcohol? You just
7 smelled alcohol?

8 A Right. I mean, I --

9 Q Is that right?

10 A Well, I mean, I -- I don't know whether he had -- he
11 drank the alcohol or not. But I -- you know, I just know
12 what we smelled in the back of the truck, you know, once we
13 -- you know, you can smell that odor of some alcohol there.

14 Q Okay. Now, you said the patient's pupils are equal and
15 reactive to light?

16 A Yes, sir.

17 Q And I notice you said the patient's breathing is normal
18 but shallow. Skin is cool and pale?

19 A Uh-huh. That was initially, yeah.

20 Q Again, it started deteriorating and you guys took --

21 A Yes.

22 Q -- emergency action to get him bagged?

23 A And the pupils equal and reactive, that's where you
24 assess neurological function. You know, that the pupils are
25 responding. The brain is, you know, responding to what, you

1 know, it's supposed to.

2 Q Are you aware that he -- or did you followup on his
3 medical afterwards to see what happened to him?

4 A I did not. We see so many patients.

5 Q I'm sure you do. And thank you for the work you do.
6 Now, these concussions -- I mean, if he had a concussion --
7 as I understand a concussion is that sometimes you'll have
8 what we call an internal concussion where your brain hits
9 the front of your skull and bounces back on the back of it.
10 You can't see any hit to the head. But that brain will
11 start swelling and it'll create some type of concussive -

12 A Uh-huh.

13 Q So at that time it hadn't gotten to that point yet?

14 A Well, I mean, we -- we have no way of, you know,
15 knowing, you know --

16 Q That kind of thing?

17 A Yeah. We -- you know, with a CT scan, you know, they
18 can see that.

19 Q Figure all that out. And then -- and then you said
20 while in the back of the vehicle is when you say you smelled
21 the smell of alcohol?

22 A I did. Yeah, I did. Before that I didn't because I
23 wasn't in close proximity -- you know, immediate proximity
24 before that.

25 Q I understand. And as the Life Flight got there they

- 1 wanted to go ahead and intubate him --
- 2 A Before he was --
- 3 Q -- before they would even load him on the --
- 4 A Right.
- 5 Q They needed the room to do it?
- 6 A Yes, sir.
- 7 Q And that was done --
- 8 A That was done in the ambulance.
- 9 Q Okay. And did they get you all to estimate the speeds?
- 10 A We -- every MVA call we have to estimate the speed.
- 11 It's just a -- it's not -- that's what it is is an estimate.
- 12 You know, we have no way of really knowing.
- 13 Q I didn't know if there was anything scientific about
- 14 putting that kind of thing --
- 15 A It's not. It's just --
- 16 Q Generally you all -- you all don't really care about
- 17 all that, do you?
- 18 A Well, it's just on MVA calls there's certain things you
- 19 have to answer on every one.
- 20 Q I got you.
- 21 A And so, you know, we just do what we -- a general
- 22 estimate. There's nothing scientific about it.
- 23 Q And that's what I'm saying. You all are more worried
- 24 about getting this patient help and you all don't really
- 25 care all this other stuff.

1 A Well, we do. We do. I mean, I care about, you know,
2 the paperwork. That's just a -- but, you know, you can --
3 you've got kinetic energy, depending on, you know, what the
4 force and all was. So, you know, you see -- if you see a
5 lot more damage you know the speed was probably greater. If
6 you see less damage. But we just kind of do a --

7 Q Just a guestimate? Just a guestimate?

8 A Yeah.

9 Q But again, when I say your priorities weren't really
10 worried about paperwork in these cases, you do the
11 paperwork, but your priority is to save lives?

12 A Well, our priority at the time. You know, we --

13 Q Right.

14 A Yeah, we -- now, later, after the call is over, our
15 priority is the paperwork.

16 Q This becomes the paperwork -- the priority. I
17 understand.

18 A But while you're on scene you gather a lot of
19 information. I always carry a pad and I'm constantly
20 writing down, you know, everything that's going on and --

21 Q Do you happen to have your pad from that night?

22 A I don't. I don't. We destroy -- we destroy all that
23 stuff.

24 MR. GARRETT: All right. Thank you.

25 THE COURT: Redirect?

1 MR. BLACK: No, sir, Your Honor.

2 THE COURT: You can step down, sir.

3 (Whereupon, the witness stepped down from the witness
4 stand.)

5 THE COURT: If there's no objection you're free to
6 leave the courthouse or you're welcome to remain with us.

7 MR. GARRETT: No objection from the Defense.

8 THE COURT: Next witness, Solicitor.

9 MR. BLACK: State calls Dr. Bradley Snow.

10 MR. GARRETT: Your Honor, may we approach?

11 THE COURT: Sure.

12 (Whereupon, a sidebar was held.)

13 MR. BLACK: State calls Manley Harris.

14 MANLEY HARRIS, having been duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BLACK:

18 Q Trooper Harris, can you state your name for the record,
19 please.

20 A I'm Manley Harris.

21 Q And where do you work, Mr. Harris?

22 A With the South Carolina Highway Patrol.

23 Q And what is your job title with them?

24 A I'm a sergeant with the South Carolina Highway Patrol.

25 Q And what kind of responsibilities do you have, just

1 briefly?

2 A I'm Assistant Post Commander for Greenwood, Abbeville.

3 I assist with making schedules, collecting evidence in,

4 enforcement duties and just supervising the road guys.

5 Q Do you remember November the 15th, 2014?

6 A Yes, sir.

7 Q You didn't respond to that scene, did you?

8 A No, sir. I was off that night.

9 MR. BLACK: Your Honor, may I approach?

10 THE COURT: Sure can.

11 Q You were involved with the case however just briefly,

12 weren't you?

13 A Yes, sir. I received the evidence from our drop

14 refrigerator and our patrol officer logged it into our

15 central evidence collection database.

16 Q And I've shown you what's been just premarked as

17 State's No. 5. Do you recognize what that is?

18 A Yes, sir.

19 Q And what is that?

20 A This is the chain of custody and evidence that was

21 collected that night and turned in by Trooper Smith to our

22 evidence refrigerator which is locked once the Trooper turns

23 it in.

24 Q Where is that at?

25 A It's in our patrol office in Greenwood.

1 Q And where is your patrol office?

2 A It's at 1803 US 25 Bypass Southeast here in Greenwood.

3 Q And when you -- when did you actually receive this
4 particular item?

5 A I logged it in on the 16th of November, 2014.

6 Q And who did you receive it from?

7 A I received it from the evidence locker refrigerator.
8 What it is, once the road guys, or whichever trooper makes
9 the case, would log it into this refrigerator and lock it,
10 and just me and another evidence custodian has the
11 combination to remove the item. I removed the item and then
12 logged it into our central database which is collected in
13 Columbia, and then I lock it into another room which has a
14 locked refrigerator inside of it until it can be transported
15 to Columbia.

16 Q And in this -- in any Highway Patrol case, once a
17 arresting officer drops the evidence off, does anybody else
18 have access to it other than your or another custodian?

19 A No, it's just us two that have access to the lock.

20 Q Who are the custodians at Highway Patrol?

21 A During this case it was myself and Lieutenant May. Now
22 it's myself and Corporal Brown.

23 Q Corporal Brown?

24 A Yes, sir. Because Lieutenant May moved to another
25 office, so he had to give it up.

1 Q I see. So you ended up receiving this particular item
2 from Trooper Smith; is that right?

3 A Yes. From the refrigerator. Yes, sir.

4 Q And what ended up happening to this particular item
5 after you handled it and moved it around into the locked
6 containers and evidence at Highway Patrol?

7 A Once I logged it in and put the label, see on the
8 bottom, and it's put into a central tracking database, I
9 logged it out to another trooper who then transported it to
10 Columbia to our C.E.F. facility where he would sign it over
11 to one of our evidence techs that works at C.E.F. in
12 Columbia.

13 Q In this particular case who did you give it to?

14 A I signed it over to a Trooper whose no longer with us
15 on November 17th, 2014.

16 Q And what was his job, to take it somewhere else?

17 A Yes. He would carry it straight from our office to our
18 central evidence collection area which is located on Shop
19 Road in Columbia, South Carolina. They house all evidence
20 for Patrol related cases.

21 Q All evidence from the Highway Patrol?

22 A Everything but simple possession of marijuana. All
23 open containers stay in our office until they're
24 adjudicated.

25 Q And that's in the state of South Carolina?

1 A Yes, sir.

2 Q So from Jasper County they get evidence?

3 A Yes. Anything that's -- anything besides simple
4 marijuana or open containers.

5 Q And that's called, what did you say C.E.F. --

6 A The C.E.F., Central Evidence Facility.

7 Q Okay. So this particular item was sent down to SLED;
8 is that right?

9 A Once it goes to C.E.F. they sign it over to a C.E.F.
10 tech. In this case it was Sergeant Frick who was a
11 corporate at the time. And then they transport it to SLED
12 for analysis.

13 Q Now, in this particular case do you remember -- I'm
14 sure you've handled lots of evidence; is that right?

15 A Yes, sir.

16 Q Was this evidence packaged differently when you first
17 received it the day of the 16th?

18 A Yes, sir. It was in a white SLED box. It's probably
19 about that big, and it had an evidence seal where it was
20 sealed up. The box was, by Trooper Smith.

21 Q Okay. When you handed -- and when you took possession
22 of it it still had that seal on it?

23 A Yes, sir.

24 Q And when you gave it to Trooper Lusk did it still have
25 that seal on it?

1 A Yes, sir.

2 Q And how long does that seal stay on the evidence?

3 A It's on the duration that we have control of it until
4 it's sent to SLED and then they'll open the seal and do an
5 analysis on the evidence inside the box.

6 Q Test the evidence or whatnot?

7 A Yes.

8 Q But they got -- I guess they have to take it out of the
9 bag to test it, right?

10 A Correct.

11 Q There's a second page of that chain of custody; is that
12 right?

13 A Yes, sir. That's just a supplement. So it's moving
14 hands everyone can continue to sign it.

15 Q Did you ever come back into contact with this
16 particular item?

17 A I did. On February the 13th I went down to our Central
18 Evidence location on Shop Road, and that was Sergeant Frick,
19 and was given this evidence, and I brought it to Greenwood
20 where I logged into our evidence room overnight until it was
21 Trooper Smith yesterday.

22 Q So when did you -- I guess the 13th. Was that Monday?

23 A Yes, sir.

24 Q So you went down Monday and got it?

25 A Yes, sir.

- 1 Q And where was it at on Monday?
- 2 A It was at Central Evidence on Shop Road.
- 3 Q Is all evidence stored there --
- 4 A It is.
- 5 Q -- until the case is adjudicated?
- 6 A Until it's adjudicated.
- 7 Q That's Highway Patrol cases?
- 8 A Right.
- 9 MR. BLACK: Beg the Court's indulgence.
- 10 THE COURT: Sure. Take your time.
- 11 MR. BLACK: I don't have any further questions. Please
- 12 answer any questions Mr. Garrett might have for you.
- 13 THE WITNESS: Yes, sir.
- 14 THE COURT: Cross-examination?
- 15 MR. GARRETT: Thank you.
- 16 CROSS-EXAMINATION
- 17 BY MR. GARRETT:
- 18 Q Trooper Harris, did -- in addition to the evidence that
- 19 you were given to put into storage -- again, is your storage
- 20 facility there in Greenwood, Troop --
- 21 A Yes, sir. We have a -- sir, I apologize.
- 22 Q -- Troop 2?
- 23 A Yes, sir. Troop 2. The office. Yes, sir.
- 24 Q Down the Bypass?
- 25 A Yes, sir.

1 Q And I was wondering, are you responsible for taking
2 evidence of beer cans and alcohol?

3 A That -- they should, yeah. That's up to the individual
4 Trooper if they choose to take that evidence or not. All I
5 do is log it in unless they bring it to us.

6 Q So there is a protocol in place for you to log in
7 alcohol. I heard you say the word beer cans or --

8 A Yeah. If they bring it I'll log it in. Yes, sir.

9 Q And tell the -- tell the jury what your standard
10 function of handling beer cans or beer bottles, what's your
11 standard for handling that?

12 A If I do get a beer can or a beer bottle, or any open
13 container they log it in. It's placed into a locker inside
14 a locked room where it stays until the case is adjudicated.

15 Q And so, that could -- that could have been done in this
16 case?

17 A If there was an open container, I assume. I'm just
18 here to testify.

19 Q I understand. But you didn't see any open container --

20 A No, sir.

21 Q -- along with that evidence?

22 A No, sir.

23 Q So is it safe to assume that if you're responsible or
24 you were involved in this case that there was no evidence of
25 the beer bottle, or any kind of bottles or anything like

1 that?

2 A No, sir. All I've got logged in was this blood here.

3 Q That's all?

4 A Yes, sir.

5 Q But there's nothing that would have prohibited somebody
6 from bringing that and having it stored and having it looked
7 at and that kind of thing; is that right?

8 A Yeah, if there was one they could have. Yes, sir.

9 MR. GARRETT: Beg the Court's indulgence just a minute.

10 THE COURT: Sure.

11 MR. GARRETT: That's all we have, Your Honor.

12 THE COURT: Anything on redirect?

13 MR. BLACK: No, sir, Your Honor.

14 THE COURT: Thank you sir, you can step down.

15 THE WITNESS: Thank you, sir.

16 (Whereupon, the witness stepped down from the witness
17 stand.)

18 MR. BLACK: State calls Dr. Bradley Snow to the stand.

19 DR. BRADLEY SNOW, having been first
20 duly sworn, testified as follow:

21 MR. GARRETT: Your Honor, may we approach?

22 THE COURT: Sure.

23 (Whereupon, a sidebar was held.)

24 THE COURT: You may proceed, Solicitor.

25 MR. BLACK: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY MR. BLACK:

3 Q Dr. Snow, can you please introduce yourself to the
4 jury, please.

5 A Bradley Snow.

6 Q And, Dr. Snow, where do you work?

7 A I work in Greenville Memorial Hospital.

8 Q And what is your job at Greenville Memorial?

9 A I do joint surgery and trauma surgery there.

10 Q And how long have you been employed with Greenville
11 Memorial?

12 A I've been employed since 2000.

13 Q And can you tell us a little bit about your training
14 and experience.

15 A Sure. I did medical school at UAB, which is University
16 of Alabama at Birmingham. I did my surgery residency at
17 Greenville, and that was five years. From 2000 to 2005.

18 Q You say Greenville?

19 A Greenville Hospital. Yes, sir. And then once I
20 completed my general surgery I was in practice for seven
21 years and then did a critical care fellowship from 2012 to
22 2013 at Charleston.

23 Q Was that a MUSC?

24 A Correct.

25 Q And that was -- when did that end?

1 A 2013.

2 Q And once you finished that in Charleston where did you
3 -- did you go back to work in Greenville?

4 A I did.

5 Q What about your undergrad? Where did you go to
6 undergrad?

7 A I went to Birmingham Southern College in Birmingham,
8 Alabama.

9 Q So you're transplanted from Alabama?

10 A Correct.

11 Q Doctor, have you ever testified in court before?

12 A I have.

13 Q Have you ever testified as an expert witness?

14 A I have.

15 MR. BLACK: Your Honor, at this point the State moves
16 to qualify Dr. Snow as an expert in general surgery, trauma
17 and critical care.

18 MR. GARRETT: Without objection, Your Honor.

19 THE COURT: Without objection, Dr. Snow is found to be
20 an expert in that area, or those areas. You may proceed.

21 MR. BLACK: Thank you, Judge.

22 Q Dr. Snow, were you working at Greenville Memorial in
23 2014? November of 2014?

24 A I was.

25 Q Did you -- did you happen to treat a patient of Mr.

1 Adam Rowell?

2 A I did. I was the surgical attending when he came in.

3 Q Do you remember about what time he came in?

4 A The evening of the 15th.

5 Q And how did you first come in contact with the
6 Defendant?

7 A The patient was a trauma alert in our hospital system.
8 And so, our responsibility at that point -- he was a level
9 one trauma.

10 Q What does that mean?

11 A We have two designations as far as levels of traumas.
12 So if paramedics call in a level one they're expected to be
13 within the trauma bay in 15 minutes, and if they're level
14 two they're expected to be in the trauma bay in 30 minutes.

15 Q So he was a level one?

16 A Correct.

17 Q The highest level?

18 A Correct.

19 Q So you came into contact with him pretty quickly?

20 A Yes, sir.

21 Q When an individual is first -- when they first show up
22 at the hospital are there certain protocols and procedures
23 that you and the nurses do?

24 A Yes, sir. So as far as the gentleman you're referring
25 to, arrives to us from the helicopter crew --

1 Q Yes, sir.

2 A -- and he had had a breathing tube placed where he was
3 intubated. And so, when someone arrives we confirm that the
4 breathing tube is inside of his windpipe and not inside of
5 his swallowing tube to make sure that we're breathing for
6 him. And then we have a series of events that we then try
7 to identify to make sure he didn't have a collapsed lung or
8 make sure he's moving air inside his lungs and then make
9 sure he's not externally bleeding at the -- would be the
10 next step.

11 Q So it sounds like breathing is kind of the first
12 primary thing you are concerned with?

13 A Yes, sir.

14 Q Just briefly, anytime anybody shows up in the ER, the
15 trauma center, do you or the nurses, do you all -- do you
16 all draw blood?

17 A We do.

18 Q And what's the purpose of that?

19 A The purpose is to -- we have a trauma panel, which is a
20 group of bloodwork tests that are sent to help identify
21 evidence for abnormalities within their blood.

22 Q Do you eventually get that report back?

23 A We do.

24 Q And based on that report, does it kind of effect how
25 you treat an individual?

1 A It makes -- gets you information to help treat the
2 patient. Yes, sir.

3 Q And in this case, I guess, everybody gets their blood
4 drawn; is that right?

5 A Correct.

6 Q When is that done? Is that done pretty quickly once
7 they arrive?

8 A As soon as the patient comes in, as far as blood's
9 going to be drawn from the nurse, whenever people have IVs
10 placed, as soon as the needle is stuck in the vein the blood
11 can be drawn with a different peripheral stick. Meaning a
12 stick that's not related to the IV insertion.

13 Q Now, moving on to the patient that you ended up
14 treating. Can you describe to the jury what kind of
15 injuries that you observed when you saw the patient?

16 A Yes, sir. So he had some deformities of his upper and
17 lower extremities, which means that they're not straight.
18 And so, that makes you concerned about having fractures in
19 those locations. He had an elevated heart rate, or
20 tachycardia is the medical term for that, and he was
21 receiving a blood transfusion -- or had received a blood
22 transfusion in flight by the flight crew.

23 Q And did you have access to that information?

24 A Normally what ends up happening is whenever someone
25 comes in the trauma bay we confirm their airway first and

1 then we get a report from the people who are bringing the
2 patient in.

3 Q From the nurse that may be on the chopper with the
4 individual?

5 A Correct. So the flight crew will give a report of the
6 mechanism of why the patient's there and give a report of
7 their vital signs.

8 Q Do you remember how much -- how much blood and how much
9 fluids this patient had received before he got to you?

10 A The patient had received a unit of fresh frozen plasma,
11 which is like the part of your blood that helps your blood
12 clot, and also had received a packed cells. Packed RBCs are
13 actually hemoglobin molecules that help you carry oxygen in
14 your blood.

15 Q Now, just stepping back a little bit. The fresh frozen
16 plasma. You said a unit. What is a unit?

17 A A unit is basically a set volume of plasma that's
18 transfused.

19 Q Do you know how much that would be?

20 A It's around 250, and around 200 to 150 with FFP, which
21 is the fresh frozen plasma.

22 Q And you said something after that before, I guess, went
23 back and was asking you about the FFP. The fresh frozen
24 plasma. What was the other thing that he received? Was it
25 -- you said additional --

1 A Packed cells are -- it's called RBCs. It's blood.

2 That's what people -- when you commonly say blood that's

3 what you think of.

4 Q So it's like the red component that you see in the bag

5 of blood?

6 A Correct.

7 Q And how much did he receive of that, do you remember?

8 A A unit.

9 Q And how much is a unit again?

10 A It's -- it varies as far as the component of it, but

11 it's typically 50 cc's to 300.

12 Q What about other fluids? Was this individual given

13 other fluids?

14 A He was given IV fluids as well, and I don't recall the

15 exact volume.

16 Q Do you -- what typically is an IV fluid?

17 A So basically IV fluids that we give patients that come

18 in with trauma are normally salt water that's similar to

19 what's in your blood. And there's different components of

20 the IV fluids that make it closer to your -- what's in your

21 -- what's the components in your blood. We're basically are

22 trying to give replacement of fluid that's similar to what

23 is coming out of the blood vessel.

24 Q Once you establish what the patient had received what

25 did you do next?

1 A So as far as the routine, like I said, is we want to
2 make sure that someone's not showing signs for external
3 bleeding. We normally do a chest x-ray to make sure there's
4 not evidence for a collapsed lung, or also we allow -- that
5 allows us to take some look at some of the heart or big
6 blood vessels in their chest, and also make sure the
7 breathing tube's in the correct location. And then we also
8 perform an ultrasound to see if there's evidence for fluid
9 inside their body. So that could be anywhere from blood to
10 stomach or bowel contents. And we also get vital signs to
11 see if their heart rate is up and make sure their blood
12 pressure is normal.

13 Q So after you did all these things what did you
14 determine about this particular patient?

15 A So as far as when he -- whenever he arrived his blood
16 pressure was stable. What we mean by that is typically it's
17 over 90 is someone's diastolic blood pressure. So you take
18 a top and bottom blood pressure we normally want three
19 numbers on top. He did have some elevated heart rate, which
20 is -- the medical term is tachycardia. So his heart was
21 beating quickly. And as far as after our initial evaluation
22 he was sent to the CAT scanner to -- which is basically an
23 x-ray machine that looks like a donut. It gives us more
24 tissue or better pictures of the internal organs.

25 Q And, I guess, once you -- once you were treating him

1 what did you -- what was going on with him?

2 A So as far as when he went from the CAT scanner back to
3 the trauma bay, and it's a very normal pattern for patient
4 movement, is that when he went back to the trauma bay his
5 blood pressure was low. And we had -- whenever CAT scans
6 are done we immediately can see the results of those tests,
7 and he had some fluid in his belly, and that was concerning
8 that he could have had bleeding inside of his belly or an
9 injury to his guts, or stomach.

10 Q Did you do anything to try to kind of fix that? To
11 remedy that?

12 A So when peoples' blood pressure is low we normally try
13 to give people blood back. And so, he was started having
14 blood transfusions from us. And then he was taken up to
15 surgery to better -- for us to see what's the concern for
16 bleeding.

17 Q Now, when he received the first blood -- blood
18 transfusion from Greenville Memorial do you remember about
19 what time was that?

20 A It was once we came back and the blood pressure was
21 low.

22 Q Was it -- was it after you all had already stuck him
23 when he first got there to figure out --

24 A Yes.

25 Q So the first transfusion at the hospital was after you

1 all stuck him?

2 A Correct.

3 Q Did you eventually figure out what the fluid in his
4 belly was?

5 A So what we normally do when we take someone up to
6 surgery, we make a cut in the middle part of their belly.
7 And normally what we do is we -- obviously the first thing
8 we're trying to identify is stop any bleeding that someone
9 has. And so, that's the main goal of what we're looking
10 for. When we got -- opened up his belly he had around 500
11 cc's of fluid inside of his belly. So normally a Coke cans
12 around -- to give you some idea, it's around 300 cc's of
13 fluid. So he had had some blood already in his belly that
14 we saw, and he did not have evidence for spleen injury,
15 which are called solid organ injuries. He did have a small
16 cut in his liver that was not actively bleeding, but we put
17 some pressure on it to stop any oozing that he'd have from
18 that point. The main source of blood loss for him that we
19 found inside of his tummy was the blood supply to the colon,
20 which is where your bowel movements come out of.

21 Q Okay. So just kind of stepping back. The spleen, you
22 said it was fine. The liver, there was -- there was a small
23 cut. Can you describe to the jury what that was?

24 A So as far as the liver, it can be kind of split into
25 left and right side. And so, there's a split right in the

1 middle part of the liver that helps determine right or left
2 side. So this one -- where the split was in his liver, he
3 had a small to -- on the top of the liver that was not deep
4 and was not actively bleeding at the time.

5 Q And how big was his cut?

6 A It was small. From an operative report I didn't give
7 the exact -- the exact size.

8 Q And when you went in there, there was nothing leaking
9 from the liver?

10 A No, sir.

11 Q How did you all -- how did you fix that?

12 A So normally what we do is a lot of liver trauma can be
13 controlled or stopped bleeding by just putting pressure on
14 it. So we have things that look like rags we put inside
15 someone's belly. And we put those on the top and the bottom
16 part of the liver just to hold pressure there.

17 Q And you were basically holding it into place?

18 A We put those on the top and bottom of his belly and
19 those stay in. We don't take those out.

20 Q They stay in the entire time?

21 A Yes, sir.

22 Q And do you know about what time you were doing this
23 procedure?

24 A It was after -- after his arrival. So the pattern was
25 he arrived, we confirmed his airway, CT scanner, low blood

1 pressure, went to surgery.

2 Q If you could estimate it, hour, two hours? Do you
3 know?

4 A I would have to look at the medical record for the
5 exact timing.

6 Q I'll hand those up here in a minute, Dr. Snow. So we
7 talked about the spleen and the liver. You also mentioned
8 the bowels; is that correct?

9 A Yes, sir.

10 Q What was going on with his colon and his bowels?

11 A So he had some very, what we call, superficial tears in
12 the outside of his small intestines. So that basically
13 connects your stomach to your colon. It's a long tube. And
14 there is not what we call full thickness where all the
15 layers of the bowel were torn. These were on the very
16 superficial part that we just put some stitches in so they
17 wouldn't be a problem later on. As far as -- he was also
18 found to have some bleeding in the blood supply to the colon
19 in the lower left-hand side of his belly. And that's where
20 it appeared that most of the blood loss was in his belly.
21 But it was not a tear inside the bowel itself, or the
22 tubing. It was the blood supply to it.

23 Q So the bowels didn't necessarily have a tear in it; is
24 that correct?

25 A Correct. There was no evidence for a full thickness or

1 a hole in the bowel.

2 Q Was there anything leaking out of the bowels?

3 A No.

4 Q But you did say you put sutures in there?

5 A We actually got a stapler and took that section of the
6 bowel out. So what ends up happening is in those instances
7 is that if -- the bowel's a tube and you have blood going up
8 to it. And so, the blood supply down here was torn. And if
9 you don't remove that the bowel will die and then will have
10 a hole in it or rupture later on. So when that happens you
11 have to remove that section of bowel.

12 Q And the colon is related to the bowels in a way as
13 well?

14 A Yes, sir. So it's part -- if you were to say bowels,
15 that could include your small or large intestine.

16 Q Okay. Can you describe kind of what was going on with
17 -- so what you were describing previously, does that include
18 the colon as well?

19 A So as far as the superficial tears in the small
20 intestine are the small bowel which connects the stomach to
21 the colon. The colon is the large intestine and that's what
22 we had to remove.

23 Q And why did you all remove that?

24 A Because if we had not, it did not have any blood supply
25 to it, and so it would die. And so, at that point then it

1 would rupture.

2 Q But you all removed it before it ruptured or anything?

3 A Correct.

4 MR. BLACK: Your Honor, may I approach the witness?

5 THE COURT: Sure can.

6 Q I'm showing you what's been marked -- it looks like the
7 nurse's notes. Do you recognize that, Doctor?

8 A Yes, sir.

9 Q Under --

10 MR. GARRETT: May I see it? May I see it, Counsel?

11 MR. BLACK: Yeah.

12 MR. GARRETT: May we approach, Your Honor?

13 THE COURT: Sure.

14 (Whereupon, a sidebar was held.)

15 MR. BLACK: Thank you, Your Honor.

16 Q Doctor, you ended up performing the surgery on Mr.
17 Rowell; that's right?

18 A Yes, sir.

19 Q And you've had a chance to review your operating
20 report; is that correct?

21 A Yes, sir.

22 Q And just a couple of things from your -- from your
23 report, or from the operation. Were you all giving -- the
24 Defendant in this case, were you all giving him fluids and
25 other blood?

1 A Yes, sir.

2 Q And can you tell -- can you tell us how much you all
3 ended up giving him?

4 A So during the procedure he had gotten -- including all
5 the transfusions, he had a total of nine -- nine units from
6 arrival to in the surgery of blood cells, which is the stuff
7 that you see that you think of as blood. He had two units
8 of FFP, which is the yellow component of blood that allows
9 people to have clotting mechanism, and he got six liters of
10 what we call cystalloid, which is like IV fluids, or salt
11 water, that were given through is vein.

12 Q And was all this done at one time or was it done kind
13 of sporadically? Kind of during the course of the surgery?

14 A It was just done continuous from once it started to
15 completion.

16 Q And the nine units, how -- how many milliliters is a
17 unit again?

18 A Around 500.

19 Q And in terms of -- and in terms of the blood in like a
20 normal, you know, six foot, 200 pound individual, how much
21 -- how much blood is this actually compared to an individual
22 that's -- all the blood that's in their system?

23 A So as far as a quick way of measuring blood volume, so
24 how much blood you have inside your veins and arteries, it's
25 typically you take someone's weight and kilograms. So for

1 140 pound person, that's close to 70 kilograms, and then you
2 multiple that 70 times 75 to get their estimated blood
3 volume. So for most people you -- depending on their
4 weight, their blood volume can be affected by the size of
5 the person. But, you know, on average for most people it's
6 anywhere from five to six liters of fluid.

7 Q Five to six liters of blood in a person?

8 A Yes, sir. That's around five -- 5,000 milliliters, or
9 five liters.

10 Q So in terms of percentages, if an individual's, I
11 guess, 200 pounds and they've received nine units of blood,
12 what percentage of blood is that new blood into that
13 person's system?

14 A So as far as the issues, you just multiple nine times
15 the volume of the blood that was given. So for him that
16 would be close to around two and a half liters of blood
17 volume, or volume that was given to him.

18 Q And what percentage is that if you --

19 A So if you have someone that was -- had a six liter
20 blood volume that's, you know, a third.

21 Q About a third?

22 A Uh-huh (affirmative response.)

23 Q During the course of the surgery you talked a little
24 bit in your report about the blood pressure of the person
25 you were treating; is that right?

1 A Yes, sir.

2 Q How was his blood pressure kind of throughout the
3 surgery?

4 A So as far as he had -- when he arrived to the trauma
5 bay blood pressure was in the normal range, and when he
6 dipped down with the blood pressure that was lower he had
7 some response to given fluids. Meaning that as far as he
8 had -- blood pressure came up with him given blood. But he
9 had some episodes of still having some blood. He then
10 proceeded to maintain his blood pressure.

11 Q And that was all given kind of sporadically throughout
12 the surgery?

13 A Yes, sir. Normally that's given -- the anesthesia, or
14 the other physicians that are involved and their extenders
15 during the surgery.

16 Q And I believe you also talked about acidosis in your
17 report as well.

18 A Yes, sir.

19 Q What was going on with that in this particular case?

20 A So when people have blood loss, this patient also had
21 obviously injuries inside of his belly, but he also had
22 evidence for what we call long bone fractures. And that's
23 what I referred to earlier as having deformity of his
24 extremities whenever he came in. So your long bones are
25 like your thigh bone, your arm bone. Those are alive, too,

1 and when they break or have -- or are broken, they can bleed
2 as well. So when people have blood loss you can have poor
3 profusion to your tissues and that shows up to us as having
4 acid in your blood.

5 Q Does -- do alcoholics, do they have acidosis?

6 A Sometimes when people have severe intoxication can
7 cause acidosis as well.

8 Q What about -- does blood alcohol in a person's system,
9 does that correlate with acidosis?

10 A As far as the acidosis is poor profusion and doesn't --
11 normally does not -- the acidosis normally does not cause
12 people's blood alcohol to be elevated.

13 MR. BLACK: Beg the Court's indulgence.

14 THE COURT: Sure. Take your time.

15 MR. BLACK: Thank you for your time, Doctor. Please
16 answer any questions that Mr. Garrett might have for you.

17 MR. GARRETT: Your Honor, may we approach?

18 THE COURT: Sure.

19 (Whereupon, a sidebar was held.)

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen of the jury, we are going to take a morning break.
22 And so, go back to the jury room, and remember no discussion
23 about anything related to this case, and we'll get you back
24 out in just a little bit.

25 (Whereupon, the jury exited the courtroom at 10:56

1 a.m.)

2 THE COURT: Before we get into this current matter, let
3 me just go ahead and just put on the record we had a sidebar
4 conference. State was wanting to get in with the doctor,
5 discuss with the doctor a medical --

6 MR. BLACK: You said State. Defense, I believe, Judge.

7 THE COURT: Well, the Defense objected, but I think the
8 State wanted to examine the Doctor concerning a hospital
9 record that had a notation of ETOH intoxication. I ruled in
10 favor of the Defense, indicating since the blood analysis
11 results have not come into evidence yet it would be a little
12 premature to deal with a hospital notation. Certainly the
13 results come in related to the hospital draw, then I think
14 the State would be able to get into that with whatever
15 appropriate witness. So just to note that for the record.

16 Now, we've got an issue. At sidebar, Mr. Garrett, you
17 indicated that your -- your doctor has some -- some chart of
18 some sort that you want to be able to utilize in examining
19 this doctor, and the State made some reference that they had
20 not seen this document. So tell me exactly what you've got
21 and then I'll hear the objection from the State.

22 MR. GARRETT: All I have is a summary, Judge, of the
23 times. And these were things that were asked on direct. I
24 have a summary of every unit of blood, every unit of saline
25 or whatever was given to him and exactly what time they were

1 given. And the relevant part is, is that there was some
2 additional times maybe after his surgery while he was being
3 taken care of that the later blood draw was done at about
4 1:05, I believe, a.m. in the morning.

5 THE COURT: We have two hospital blood draws?

6 MR. GARRETT: We do.

7 THE COURT: Okay. I was unaware of that, but --

8 MR. GARRETT: This is the one that's six hours after
9 the alleged incident. But it's that one, of course, that
10 we're talking about. And I just want to make sure the jury
11 knows the quantities, because there may be a difference of
12 opinion in our doctors as to the quantities that a person
13 would have in their body naturally vis-a-vis what was put in
14 there. I'm not setting that up. I'm not -- I'm not going
15 to have -- I'm not going to ask him about my client's
16 percentage -- my doctor's percentages. I'm just going to
17 ask him is not how much went into the body.

18 THE COURT: Would this be a summary that your -- your
19 doctor put together based solely on the hospital records?

20 MR. GARRETT: Yes, sir.

21 THE COURT: So the information would be -- I assume the
22 State has all the hospital records, as the Defense does. So
23 this is just a summary of information that you have in your
24 possession?

25 MR. BLACK: Mr. Garrett indicated up at the bench that

1 it was a report done by his expert, and we have received no
2 report from his expert. We sent a 405. But that's not what
3 I have under the impression at the bench.

4 MR. GARRETT: It's simply a summary. I misspoke. It's
5 a summary.

6 THE COURT: Well, let's do this. We're on a break.
7 How about certainly give him a copy. I think you said you
8 need to print it out?

9 MR. GARRETT: We just got it --

10 MR. BLACK: I just went and got it. Full copies, Your
11 Honor.

12 THE COURT: Okay. Show it to him and it may be where
13 we don't have an issue. If we do, then I'll deal with it.

14 MR. BLACK: Judge, just for the record, if there are
15 percentages and it's done by his doctor, we definitely have
16 a -- we definitely have a problem with it because that's
17 part of the report done by his doctor. There's no
18 percentages done on any of the paperwork by any of the
19 hospital staff. And we think the appropriate forum would be
20 for when their expert testifies, to get this report in
21 through him.

22 THE COURT: All right. Well, take a look at it and
23 then we can certainly deal with it.

24 You can certainly step down if you need to use the
25 restroom or move around.

1 THE WITNESS: I'm good. Thank you.

2 THE COURT: You're good?

3 THE WITNESS: Yes, sir.

4 THE COURT: You need water or anything?

5 THE WITNESS: No, sir.

6 (Whereupon, a recess was held from until 11:23 a.m.)

7 THE COURT: Bring the jury out, please.

8 (Whereupon, the jury entered the courtroom at 11:23
9 a.m.)

10 THE COURT: Let the record reflect the jury is back in
11 the courtroom. Mr. Garrett, I think we're starting your
12 cross-examination.

13 MR. GARRETT: We are, Your Honor, thank you very much.

14 CROSS-EXAMINATION

15 BY MR. GARRETT:

16 Q Doctor, thank you for all your work.

17 A Yes, sir.

18 Q He looks good today. Thank you. I'd like to talk to
19 you just a little bit, if we could, about volumes.

20 A Yes, sir.

21 Q We've tried to tie this down a little bit in order to
22 try to move this case along a little bit. As I understand
23 it, before you got to the operating room he had received
24 various blood products, saline, etcetera, that you don't
25 have an exact record of; is that correct?

1 A Yes, sir.

2 Q So in order for us to really know how much was put into
3 his body from the time of the accident until he got to the
4 OR we'd have to look to other records for that?

5 A Yes, sir.

6 Q As it relates to your part of giving him blood, can you
7 determine at or about what time -- and I just want to go
8 over how much blood, or blood products, you gave him before
9 1:05 in the morning. Could you help us do that?

10 A Yes, sir.

11 Q Could you look at your records? We've got your
12 transfusion records up there.

13 A Yes, sir.

14 Q Can you just kind of go at the -- tell us what you gave
15 him during the surgery?

16 A So as far as what is in front of me as the transfusion
17 record --

18 Q Yes.

19 A -- and these are slips that are generated with each
20 unit of blood that's transfused, whether it's platelets,
21 clotting factors, which is FFP, or pack cells, which is what
22 most people think of as you're giving blood, and there are
23 records of each unit that's being transfused. So these
24 might be out of time order, but I'll be happy to read the
25 time and --

1 Q Okay, that's fine.

2 A So at 11/15/2014, at 21:05 one unit of packed cells
3 were given.

4 Q And when you say packed cells --

5 A Yes, sir.

6 Q -- can you tell us an amount? Help us understand.

7 A Yes, sir. I'd be happy to. So on the bottom of the
8 forum there's a time that's completed --

9 Q Yes, sir.

10 A -- a time that's started, and then amount infused. And
11 that was 340 milliliters.

12 Q Okay, 340. Okay, go ahead.

13 A And the component on the top is O Negative. And --

14 Q Is that the type of blood you were giving him, O
15 Negative?

16 A Yes, sir. And the PCO is leuko depleted packed cells,
17 which is the red blood cells. At 11/15/2014 at 22:30
18 there's a packed cells given, and on the bottom it said
19 infusion en route to operating room.

20 Q And how much was that?

21 A There's not anything that's described on the sheet as
22 far as how much was infused.

23 Q Is that 350?

24 A According to the other records I see of the volume that
25 was being infused.

1 Q 350?

2 A Yes, sir.

3 Q Go ahead.

4 A I have another slip in front of me that's O Positive
5 blood packed cells, and it's signed, but no other
6 information is on it.

7 Q Is that -- was that infused?

8 A I would assume that it was. I don't have the exact
9 time and date on it to say that for the record.

10 Q And how much was that one?

11 A Again, that's also -- it's written on the sheet.

12 Q Is it 350 that's written on the sheet?

13 A This is -- I mean, that's written on that sheet.

14 There's not a volume that's infused. Yes, sir.

15 Q There's not a volume infused?

16 A No, sir. That's blank on the transfusion.

17 Q Okay. And so what now?

18 A The sheet does not have a volume infused on the bottom
19 of it. On this sheet that's in front of me.

20 Q Yes, sir.

21 A As well as this one does not have a volume on this as
22 well.

23 Q And why would your sheets not have volumes on how much
24 you gave the patient?

25 A These -- as far as with the volume being infused, these

1 things are transfused in the operating room, and I'm not
2 completing these records during the time that I'm operating.
3 So these are filled by other people that are delivering the
4 blood.

5 Q So you don't know then how much blood -- when you
6 testified earlier I thought you testified you knew how much
7 blood was actually infused into his body?

8 A Yes, sir. We -- we normally ask the anesthesia towards
9 the end of the procedure how many blood units were given.
10 And also as how much crystalloid, which is salt -- basically
11 salt water was given.

12 Q So is that where the intravenous fluids section of your
13 operative note --

14 A Yes, sir.

15 Q -- says nine packed RBCs?

16 A Yes, sir.

17 Q Two FFPs?

18 A Yes, sir. And that stands for fresh frozen plasma.

19 Q And then three liters of Plasma-Lyte?

20 A Yes, sir.

21 Q And three of saline?

22 A Yes, sir.

23 Q And you don't know the volumes of those?

24 A As far as the volumes that were given would be related
25 to the packed cells that were transfused. And then like I

1 said, the amount of liters that were given were given in the
2 report.

3 Q In the report?

4 A Yes, sir. Meaning --

5 Q Is there another report that I don't have?

6 A No, sir. It says right here, as far as three liters of
7 Plasma-Lyte and three liters of saline.

8 Q And so, if we're talking three liters, how much is
9 that? Help us who don't understand --

10 A Yes, sir.

11 Q -- your science. What is a liter?

12 A So these are normally given as liters. So these are IV
13 bags that are -- have a liter component in them.

14 Q Is that 500 cc's?

15 A No, sir. A liter is 1,000 cc's.

16 Q 1,000 cc's?

17 A Yes, sir.

18 Q So just help me understand it then.

19 A Yes, sir.

20 Q If there's nine packed RBCs, how many 1,000 bags would
21 that be?

22 A So as far as the volumes that were being infused, if
23 there are 350 per unit, then that would be nine times 350.

24 Q But what if the record shows 350?

25 A Sir.

- 1 Q It's 350?
- 2 A Yes, sir. On this --
- 3 Q Nine times 350, okay.
- 4 A On these other records it says all.
- 5 Q All?
- 6 A Yes, sir. So that would be the full unit.
- 7 Q And then the two FFPs. How much volume would that
- 8 create?
- 9 A According to the record it was -- it was all that's
- 10 given on the bottom of this sheet.
- 11 Q And, sir, how much is that? 1,000 each?
- 12 A No, sir.
- 13 Q FFPs, how big is that, or how much is that?
- 14 A The bags, I don't recall the exact volume. But it's
- 15 not -- it's not a liter.
- 16 Q I've got something saying 180, if you'll look above on
- 17 the air transport. Again, that's something that was done
- 18 before they got to you. But is it the same -- did you give
- 19 some FFPs during the surgery?
- 20 A Yes, sir. As far as just referring to this report.
- 21 Q So they had already given him, like we said, a bunch of
- 22 other things before he got to you?
- 23 A Yes, sir.
- 24 Q We've got to talk to other people about that. But when
- 25 he got to you, you also gave him some FFP --

1 A Yes, sir.

2 Q -- and the FFP that I've got is 180. Is that a
3 standard?

4 A Yes, sir. It would be close to the volume.

5 Q Would be close to the volume?

6 A Yes, sir.

7 Q Would that be 360?

8 A Yes, sir.

9 Q And then if we move on down to three liters of
10 Plasma-Lyte that would be 3 one thousand?

11 A Yes, sir. So that would be the same as a three liter
12 drink, the total volume.

13 Q Three liter drink. And then three of saline.

14 A Yes, sir.

15 Q What is that?

16 A It's salt water.

17 Q Salt water. And how -- it takes three. Are we talking
18 three liters, 3 one thousand?

19 A Yes, sir.

20 Q We are, 3 one thousand?

21 A Yes, sir.

22 Q Let me make sure I've got this. It's -- do you got
23 your calculator? What I'm trying to do is figure out the
24 total number of liters that during your handling of it you
25 gave him. So if we've got nine times 350?

- 1 A 3,150.
- 2 Q And if we got 360, that would be the FFPs?
- 3 A Yes, sir. 3,510.
- 4 Q Sir?
- 5 A 3,510. That's a running total so far, 3,510.
- 6 Q And then if we added the three liters of Plasma-Lyte -
- 7 A Yes, sir.
- 8 Q 3,000? 3,150?
- 9 A 9,510.
- 10 Q Sir?
- 11 A 9,510.
- 12 Q Total right now 9,510?
- 13 A Yes, sir.
- 14 Q And then if we give three saline?
- 15 A The 9,510 was a total with the saline and the
- 16 Plasma-Lyte, the nine units of blood and the two of FFP.
- 17 Q So everything 9,510?
- 18 A Yes, sir.
- 19 Q That would be during your watch. Now, after surgery
- 20 did he -- as I understood it, he continued to receive blood
- 21 sometime after surgery for quite some time?
- 22 A Yes, sir. He had some transfusions after the
- 23 procedure.
- 24 Q And do you know how many -- how many transfusions --
- 25 maybe you could look at those records that are there, that

1 he got before 1:05 in the morning? 1:05 is the relevant
2 time for us. So if you could look at your records and see
3 after surgery. What your records reflect that he got after
4 the surgery.

5 A What I have in front of me is the transfusion
6 intraoperatively.

7 Q You only have those?

8 A Yes, sir. I have nine -- nine packed cells and two of
9 FFP.

10 MR. GARRETT: Beg the Court's indulgence.

11 Q So again, once he's kind of out of the operation --

12 A Yes, sir.

13 Q -- others are taking care of him --

14 A Yes, sir.

15 Q -- and those other records similar to the records
16 before you took care of him, are there going to be some
17 records after you took care of him before a certain time?

18 A Yes, sir. That's what I -- if he was -- there should
19 be blood transfusion records. Yes, sir.

20 MR. GARRETT: Yes, sir. Thank you so much. Thanks
21 again for all your help.

22 THE COURT: Solicitor, redirect?

23 MR. BLACK: Just briefly, Your Honor. Beg the Court's
24 indulgence.

25 REDIRECT EXAMINATION

1 BY MR. BLACK:

2 Q Dr. Snow, just briefly. Just going back over it. Do
3 you have your operative report with you?

4 A Yes, sir. I have it.

5 Q Does it have in there -- before we get started, does it
6 have in there kind of the time that you started the
7 operation?

8 A So as far as -- we don't have a listed time as far as
9 surgical start time.

10 Q Yes, sir.

11 A And as far as there's a dictation time on there at the
12 very end of the record underneath where my name is printed.

13 Q What time was that?

14 A 11:40 p.

15 Q So what time about would you have finished the
16 operation?

17 A Well, this says 11:40 p., if that's -- if I dictated
18 that right after the surgery. I don't recall if that was --

19 Q Typically you do the dictation right after the surgery?

20 A Yes, sir. I try to. Unless we have another surgery to
21 take care of.

22 Q Another emergency?

23 A Yes, sir.

24 Q So it happened -- you finished at 11:40 p.m.,
25 approximately?

1 A Yes, sir.

2 Q The blood loss that the Defendant had prior to --
3 during surgery and prior to you operating on him, how much
4 blood loss had he had?

5 A So as far as -- we approximated that he had lost around
6 200 milliliters of blood, or cc's are the same -- same
7 volume. And whenever we opened his belly he had around 500
8 cc's of blood. So if you add those two together it would be
9 approximately 700.

10 Q So he had lost approximately 700 --

11 A Of blood. Yes, sir.

12 Q -- is that milliliters?

13 A Yes, sir. And as mentioned before, it is a hard
14 estimate as far as blood loss with long bone fractures,
15 because you can have blood loss from other -- his other
16 injuries that we can't account for in his abdomen.

17 Q You're not measuring out or anything? You're just --
18 that's an estimate?

19 A Yes, sir.

20 Q And then you ended up giving him -- this has been
21 something that we've talked about. But you did give him
22 additional fluids and blood, correct?

23 A So when we give people IV fluids, to explain this, we
24 bleed whole blood. So you hear us talking about components
25 of blood and those type of things. When we give blood back

1 we give it in components. So when people donate blood their
2 blood is broken down into components --

3 Q Yes, sir.

4 A -- and those things are transfused. So when people
5 have blood loss, you know, giving an IV liter of fluid is
6 not giving a liter of blood. Whole blood. And so, not
7 every once -- and we see this a lot in stuff that we take
8 care of. All the volume that's given stays inside the blood
9 vessels. So some of it leaks out. But as far as it's not a
10 nine unit -- nine units of packed cells is not giving nine
11 units of whole blood. That's a component of the blood.

12 Q There has to be something else to make it work?

13 A Right. so that's why they're giving FFP, which is
14 clotting factors that are in everyone's blood.

15 Q And so, you gave him nine units of the red packed blood
16 cells; is that right?

17 A Yes, sir.

18 Q And I know this has already been gone over a couple of
19 times, but that's -- a unit is typically 350 milliliters?

20 A Yes, sir.

21 Q And so the total of that was 3,150, I think that you
22 testified to previously?

23 A Yes, sir.

24 Q And then the FFPs. This is -- what is an FFP again?

25 A So it's a component of -- when people give blood their

1 blood is spun down and there's different things that is in
2 blood. And so, what the blood bank does is it separates the
3 components, meaning that as far as the things that --
4 everyone thinks of blood, the red stuff, is what carries our
5 oxygen. If you were to spin that down there's a yellow
6 component on top of it that has plasma, which is what helps
7 the blood clot, and that's -- that's broken down in
8 different components. And so, when people say that you're
9 giving blood, everyone thinks of the red stuff. But we do
10 not transfuse people whole blood. We give the components of
11 blood.

12 Q You have to have the FFPs, too?

13 A Yes, sir.

14 Q And what color is that, yellow?

15 A Yellow.

16 Q And you gave -- you gave two units of FFPs, right?

17 A Yes, sir.

18 Q And those, you said -- you testified that was 180 --

19 A Yes, sir.

20 Q -- per. So that's 360 total?

21 A Yes, sir.

22 Q And then three liters of Plasma-Lyte. What is
23 Plasma-Lyte again?

24 A Plasma-Lyte is a IV fluid which is -- has sodium in it,
25 bicarb in it, and which are component -- or chemicals inside

1 of our blood that is close to the pH of what we operate on.
2 Meaning that as far as the pH of the fluid that we're given
3 is similar to the pH of our blood. And what we mean by that
4 is whether it's -- that's what our blood we normally run.
5 Saline is the different component of electrolytes. So
6 basically it's just heavy salt water.

7 Q And what color is saline? Is it clear?

8 A It's clear. Yes, sir.

9 Q What about the Plasma-Lyte?

10 A It's clear.

11 Q Clear. Both clear. And I think you gave a total -- a
12 total fluid. I think Mr. Garrett got into that. That was
13 9,510?

14 A Yes, sir.

15 Q But of the red stuff, the red -- the red blood cells, I
16 think you said -- sorry, bear with me. 3,150; is that
17 right?

18 A Yes, sir. That's nine times 350.

19 Q Did you -- did you give an estimate previously about
20 how much blood would be in a -- you know, an individual? A
21 200 pound six foot --

22 A Yeah, a rough measurement is you multiple their weight
23 in kilograms, which is not in pounds. It's in kilograms?
24 So one -- one kilogram is 2.2 pounds. So if you were to
25 take someone's weight and calculate it into kilograms and

1 then multiple that by 75, that's a rough estimate in
2 milliliters of their blood volume.

3 Q Okay. And it just -- the percentage of blood that was
4 given to this Defendant in this case, how much of -- what
5 percentage of his blood was given to him?

6 A As far as with the -- let me use the calculator to make
7 sure. Tell you the correct number.

8 Q Yes, sir.

9 A So nine times 350 is 3,150. And then add 360. So as
10 far as what we would colloid, which is the difference
11 between IV fluids that you give, which is the clear stuff,
12 which basically is easily described as salt water, the
13 colloid is anything that we give called blood products that
14 we think sticks inside the blood vessels and doesn't go
15 outside the blood vessel. So that's the -- if you do nine
16 times 350 it's 3,510, and then you add the 380 for -- I'm
17 sorry, 360. So that's 3,870.

18 Q So the 360 is the FFPs?

19 A Yes, sir. That's the two FFPs.

20 Q And what percentage would that be of an individual that
21 was 200 pounds of his total blood?

22 A Okay, so 200 pounds divided by 2.2 is roughly 90.9. So
23 we'll say 91. So 91 times 75 is 6.8. So 6,825 milliliters
24 roughly in someone's blood volume. Again, I'm rounding this
25 around a third, if you do three -- roughly three liter -

1 3,000 over 6,000.

2 Q And I think you testified earlier that it was basically
3 a third of the blood that you guys had to replenish?

4 A Yeah.

5 Q Into this particular person?

6 A As far as -- yes, sir. If you add that volume up.

7 Q A third? And this was given during -- this was the
8 amount that you gave during the -- during the operation,
9 correct?

10 A Yes, sir.

11 Q That ended at 11:40?

12 A Roughly the timeframe. Yes, sir.

13 MR. BLACK: Beg the Court's indulgence.

14 THE COURT: Sure.

15 MR. BLACK: I think that's all I have. Thank you, Your
16 Honor.

17 THE COURT: Anything in recross?

18 RECROSS-EXAMINATION

19 BY MR. GARRETT:

20 Q I just was trying to get that last calculation. If you
21 said 600 -- excuse me, 6,000 over 3,000, that would be 50
22 percent, wouldn't it?

23 A Yes, sir. But as far as -- if we're estimating our
24 blood volume as 6.8 liters.

25 Q Right.

1 A And so -- let me make sure I'm telling you the exact
2 number. So 3,150 plus 380 is 3,530.

3 THE WITNESS: Can I get a pen from you, just to make
4 sure I give the exact number?

5 THE COURT: You want a piece of paper and a pen?

6 THE WITNESS: That would be great.

7 THE COURT: Here's a piece of paper and here's a pen.

8 THE WITNESS: Thank you.

9 A So from a nine -- nine liters --

10 THE COURT: If you can do your calculations without
11 saying anything, because we're trying to take down
12 everything. So do your calculations and then you can answer
13 Mr. Garrett's question, Doctor.

14 THE WITNESS: Yes, sir.

15 A So 52 percent.

16 Q So 52 --

17 A Roughly. Yes, sir.

18 Q So 52 percent of his blood had been replaced by the --

19 A By colloid. Yes, sir.

20 Q Now, let me ask you one other thing.

21 A Yes, sir.

22 Q This blood that was transfused to him, you all weren't
23 using his blood to transfuse, you all were using somebody
24 else's blood?

25 A Yes, sir. These were all donated. He was not having

1 autotransfusion. Yes, sir.

2 Q So an autotransfusion, as I understand, you keep his
3 blood going along with the other people?

4 A Yes, sir.

5 Q Instead you took other peoples' blood and entered it --
6 or blood or blood products and entered it into his body --

7 A Yes, sir.

8 Q -- to save his life?

9 A Yes, sir.

10 Q But for that he would have died probably?

11 A Yes, sir.

12 Q So at least when you got through, about 52 percent of
13 his blood had been replaced?

14 A Yes, sir.

15 Q Or blood products.

16 A Like I said, if an estimation of his blood volume is
17 correct.

18 Q And do you have any idea where those -- the blood
19 plasma and blood products came from that he received?

20 A So as far as all the blood products are donated from --
21 are donated blood that are processed by the Blood Bank.

22 Q At the Blood Bank of South Carolina?

23 A Yes, sir.

24 MR. GARRETT: Thank you.

25 THE COURT: Anything further from the State?

1 MR. BLACK: Beg the Court's indulgence.

2 THE COURT: Sure.

3 MR. BLACK: Nothing further, Your Honor.

4 THE COURT: Okay. Doctor, you can step down, and
5 without objection you are free to leave the courthouse.

6 MR. GARRETT: Thank you, Your Honor.

7 (Whereupon, the witness stepped down from the witness
8 stand.)

9 THE COURT: All right, Solicitor.

10 MR. DOWTIN: The State calls Kelly Anderson, Your
11 Honor.

12 THE COURT: Let me see the lawyers for just a second.

13 (Whereupon, a sidebar was held.)

14 KELLY ANDERSON, having been first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DOWTIN:

18 Q Ms. Anderson, could you state your name for the record,
19 please.

20 A My name is Kelly Anderson.

21 Q And, Ms. Anderson, where are you currently employed?

22 A I'm employed with the South Carolina Highway Patrol.

23 Q Is there a certain division of the Highway Patrol
24 you're associated with?

25 A I'm assigned to what is commonly known as the MAIT

1 team, which is the Multidisciplinary Accident Investigation
2 Team.

3 Q And how long have you been with the MAIT team?

4 A I've been with the MAIT team since December 2010.

5 Q And what did you do before you were with the MAIT team?

6 A I was assigned to Greenwood and Abbeville Counties as a
7 road trooper and I joined the Highway Patrol in January of
8 2000.

9 Q And what did you say your current rank is with MAIT?

10 A Lance Corporal.

11 Q And what are your -- some of your day-to-day
12 responsibilities as a MAIT officer?

13 A Taking pictures, gathering evidence, taking video,
14 going to active scenes, going to deferred scenes.

15 Q And approximately -- you've investigated collisions
16 before?

17 A Yes, sir.

18 Q Approximately how many of those have you investigated?

19 A Probably over 100 year when I was on the road for nine
20 years, and then on average since I've been with MAIT we
21 average 170 to close to 200 cases a year. I'm probably
22 involved in at least 50 to 75 percent of those.

23 Q So if you don't investigate all collisions is there a
24 certain criteria for MAIT to be involved?

25 A That's correct.

1 Q What is that criteria?

2 A Any chargeable fatality, even if it's just somebody
3 running a stop sign but there's a fatality that's involved.
4 Anything that someone can be charged that causes a fatality.
5 Any felony DUIs, whether there was great bodily injury or
6 death. Any hit and runs with great bodily injury or death.
7 Any multiple fatalities. Any high priority cases. We're
8 also called in to assist local police departments if they
9 don't have the capabilities that we have to assist them.

10 Q And were you working with MAIT back on November 15,
11 2014?

12 A I was.

13 Q What was your rank back then?

14 A I was lance corporal.

15 Q Going back to MAIT, did you receive any specialized
16 training in this area?

17 A Yes, sir. I have.

18 Q Can you go into that training for us?

19 A I have over 1,000 hours of specialized training. Would
20 you like for me to --

21 Q Yes, ma'am. Please.

22 A I received at scene traffic collision investigation
23 training, which is 80 hours of training. I received that
24 back in 2001. Advanced collision investigation, which was
25 also 80 hours. That was in 2002. Traffic collision

1 reconstruction, which is 80 hours. That was 2002, accident
2 and collision investigation in 2010 and 2014. The one in
3 2010 was a 15 hour course and the one in 2014 was 15 and a
4 half hours. Traffic collision investigation, technical
5 phase two, which is an 80 hour course, that was in February
6 2011. Traffic collision investigation reconstruction which
7 is an almost phase three, but it's an 80 hour course. That
8 was in April of 2011. Crash scene photography, which is a
9 16 hour course, in 2011. CVR, which is crash data retrieval
10 system technician level one and level two. I've had that
11 training 2011, 2012, 2013, 2014 and 2016. Traffic collision
12 investigation, motorcycle collision reconstruction. It's a
13 40 hour course. I had that in 2011. Conservation of linear
14 momentum, which is a 40 hour course, in 2011. Commercial
15 motor vehicle forensic examination for collision
16 reconstruction, phase one, which is a 40 hour course. That
17 was in 2012. Commercial and motor vehicle collision
18 investigation and reconstruction analysis phase two. That
19 was a 40 course in 2012. Traffic collision investigation,
20 pedestrian bicycle reconstruction, a 40 hour course in 2012.
21 Fingerprint recognition and comparison, a 40 hour course in
22 2013. Interviews and interrogations, CDR update, hit and
23 run investigations, which was an eight hour course in 2013.
24 MFX mapping and Edgex animation class, a 20 hour class in
25 2013. Edgex comprehensive diagraming, a 40 hour course in

1 2013. Advanced motorcycle crash analysis, a 40 hour course
2 in 2014. Behavioral assessment and kinesics interviewing, a
3 six hour course in 2014. Tire technology clinic, an eight
4 hour course in 2015. Advanced collision reconstruction with
5 CDR crash data retrieval applications, a 40 hour course in
6 2015. Vehicle map examination for traffic crash
7 investigators, a 16 hour course in 2015. Crime scene and
8 DNA basics for forensic analysis in 2015. And insurance
9 fraud investigation for law enforcement, a five and half
10 hour course in 2016. Also attended the South Eastern
11 Collision Reconstruction Conference in 2011, the
12 Pennsylvania State Police Collision Reconstruction Seminar
13 in 2012 and 2015, and the Reconstruction Expedition which
14 was in 2016.

15 Q So that was a lot of information, so I just want to
16 focus on one area in particular. It sounds like you have
17 received some extensive training in collision
18 reconstruction?

19 A Yes, sir.

20 Q And can you just go into some of the basic concepts
21 behind that training? What does that training consist of in
22 collision reconstruction?

23 A It consists of classroom portion and then hands-on
24 portions as well. And all the conferences that I've
25 attended, they perform actual crashes in a controlled

1 environment where you're able to see exactly what happens in
2 a crash and to be able to examine the aftermath, so to
3 speak, of it.

4 Q And have you received any diplomas or certificates in
5 regards to these classes and training?

6 A Yes, sir.

7 Q And you don't have to -- I was just wondering if you
8 had.

9 A Okay.

10 Q So in addition to all that training you've spoken of,
11 do you use that training in your day-to-day responsibilities
12 with MAIT?

13 A Yes, sir. I do.

14 Q Can you explain exactly what a collision
15 reconstructionist is?

16 A The way that I like to explain it is basically taking
17 all the pieces of the puzzle of a collision and trying to
18 fit everything back together again to try to figure out what
19 caused it, what effects were involved. Just trying to find
20 answers.

21 Q Since the completion of your training and during the
22 course of your employment with MAIT have you had the
23 opportunity to reconstruct any collisions?

24 A I have been involved in reconstructions.

25 Q Do you have an approximate number?

1 A Well, ours is a team effort. Once person doesn't
2 solely do everything in that one reconstruction. You may be
3 the person that does the pictures or the video, the person
4 that does the CAD drawing, or the person that does the
5 calculations. It's usually a team effort. And I'm probably
6 involved in -- say we had 200 cases in a year, I'm probably
7 involved in some capacity probably 60 to 75 percent.

8 Q And approximately how many of those crashes have
9 involved a fatality?

10 A I would say 50 if not 75 percent of them.

11 Q And if you could, just briefly you mentioned a team
12 effort. What kind of team members are we talking about
13 here? There are specific labels. Is there like somebody
14 who has different responsibilities or --

15 A We all pretty much can do a little bit of everything
16 that's involved in our reconstructions. We do have a
17 sergeant that's over our team, and then a corporal that is
18 our supervisor, and then we have, you know, our lance
19 corporal members of the team.

20 Q Have you ever had the opportunity to testify as an
21 expert in court before?

22 A No, sir. I have not.

23 Q But you have the MAIT training.

24 A Yes, sir.

25 Q The education. Educational background.

1 A Yes, sir.

2 Q You've had a chance to use that MAIT training
3 throughout the your course of employment with MAIT.

4 A Yes, sir.

5 Q And you make reports and your measurements and stuff
6 based on that training and applying it throughout your job.

7 A That's correct.

8 MR. DOWTIN: Your Honor, at this time the State offers
9 Kelly Anderson as an expert in automobile collision
10 reconstruction.

11 MR. GARRETT: Your Honor, she would meet the
12 qualifications without objection.

13 THE COURT: Okay. Without objection, Trooper Anderson
14 is found to be an expert in the area of automobile accident
15 reconstruction.

16 Q All right. Ms. Anderson, do you remember investigating
17 a fatality that occurred here in Greenwood, South Carolina
18 back on November 15th, 2014?

19 A Yes, sir. I do.

20 Q And do you recall exactly where that collision
21 occurred?

22 A Yes, sir. It occurred on South Carolina 225 near the
23 intersection with Scotch Cross Road, which I believe is
24 secondary 131, in Greenwood County.

25 Q Do you remember approximately what time you got on

1 scene that night?

2 A I received a phone call from -- at that time he was
3 Corporal Duncan. He's our sergeant now. He called me at
4 approximately 20:20 hours, which is 8:20 p.m. It was my
5 weekend on call. And I arrived on the scene at
6 approximately 8:45 p.m.

7 Q And when you arrived at approximately 8:45 what did you
8 observe on the scene?

9 A Where the collision is is not very far from where I
10 live in Greenwood, and the way that I approached the scene
11 was to come from a side road, which is Scotch Cross Road.
12 And when I arrived on to 225 at Scotch Cross, which would be
13 a T-intersection, I looked to my left and I could see
14 emergency vehicles had the road blocked there. Fire -- fire
15 trucks and other law enforcement. So I turned left to
16 arrive at the scene. And after getting out of my vehicle I
17 did observe a red Chevrolet truck, which would be on the
18 southbound shoulder of the roadway, and I believe a dark
19 blue Chevrolet truck which would have been to my right,
20 which would be the northbound shoulder of the roadway.

21 Q And are you pretty familiar -- you said you're living
22 --

23 A Yes, sir. It's a road I travel pretty much every day.

24 Q So the red truck, what did it appear to be going?

25 A It appeared to be going, which would be a southbound

1 direction, towards the Hot Spot. If you're like coming from
2 the fairgrounds towards the Hot Spot, if you all are
3 familiar with that.

4 Q And how about the blue truck?

5 A It appeared to be going a northbound direction, which
6 would be like from the Hot Spot towards the fairgrounds.

7 Q And can you describe the highway where this collision
8 occurred?

9 A It is in a cove. There is an asphalt roadway. It has
10 guardrails on either side of the roadway due to the
11 curvature on the road. And it is -- has a double yellow
12 line. And approximately where the collision occurred is
13 where the yellow line starts to broaden to actually make a
14 paved median there.

15 Q Okay. How about the weather that evening? Do you
16 remember what it was like?

17 A I remember it was cold. Very cold. But it was clear.
18 It wasn't raining or anything like that. But it was
19 definitely cold.

20 Q How about the lighting conditions? Are there many
21 lights out there?

22 A No. There was no houses or anything in that area, so
23 there's -- there's no street lights or anything like that.
24 It's pretty dark there.

25 Q And going back to the trucks. You hit on this some,

1 but do you recall like the make, models? I know you said
2 the colors.

3 A They were both Chevrolet pickup trucks. I believe the
4 red one was an older model. It had like a rack on the back
5 on the back of it. And I believe it was actually a 2500.
6 And the blue Chevrolet -- blue truck was also a Chevrolet
7 but it was newer model. I believe it was -- had Z85 -- I
8 believe Z85 designation on it. But it was a two-wheel drive
9 truck. And it was also a four-door crew cab truck, and the
10 other -- the red truck was just a regular cab.

11 Q Were you the first MAIT officer on the scene?

12 A I was.

13 Q How about the first law enforcement officer?

14 A No, I was not the first law enforcement. I don't know
15 if that would have been the sheriff's office or if it would
16 have been the Highway Patrol.

17 Q Did you see the driver of either of the trucks?

18 A I did not.

19 Q How about any passengers?

20 A No. They had -- they had already been transported when
21 I arrived. When I arrived Corporal Bron, I believe, was the
22 supervisor that was on scene from Highway Patrol, and he
23 advised me that the driver of the red truck was --

24 MR. GARRETT: Objection, Your Honor, as to what
25 somebody advised.

1 THE COURT: Yeah, don't repeat what another trooper
2 told you. You can just testify as a result of your
3 conversation with Trooper Bron you did whatever you may have
4 done.

5 A Okay.

6 Q And we can move on from that. What did you do when you
7 arrived on the scene?

8 A Talked with Corporal Bron about details of the
9 collision, and then I began taking digital video of the
10 scene.

11 Q So you took a video of the scene?

12 A I did.

13 Q You took pictures as well?

14 A I did. I took video first and then I took digital
15 photographs. And during that time is when Sergeant Duncan
16 arrived probably 10 -- 10 or minutes after I did.

17 Q Were you and Sergeant Duncan the only MAIT members on
18 scene that night?

19 A On scene that night we were.

20 Q Did either one of you take any measurements that night?

21 A No, not that night we did not.

22 Q And why do you all typically -- or why did you not take
23 measurements this night?

24 A Probably because it was so cold. It's not a very high
25 traffic area at certain times during the day. And I think

1 Sergeant made the decision that we would come back during
2 daytime, daylight hours when it's easier for us to do what
3 we call mapping. It's easier for us to do that in the
4 daytime, and he made the decision that we could come back at
5 daytime to do the mapping. But we did make sure that the
6 scene was painted and that all the evidence that was found
7 on the scene was painted so that we would be able to see it
8 when we came back.

9 Q Let's go back to that painting. What all do you
10 typically look for when you're painting or making markings?

11 A You look for tire marks. Any evidence that can be
12 found in the roadway. Tire marks, gouge marks, scratches.
13 Of course, marking the final rest of the vehicles. That
14 kind of thing.

15 Q Did you go back to the scene at a later date?

16 A I did. We went back on November the 18th.

17 Q Were you alone when you went back to the scene on the
18 18th?

19 A No, sir. Actually Sergeant Duncan went back with me,
20 and also Lance Corporal K.K. Bratcher of the Highway Patrol,
21 MAIT team so.

22 Q And just to be clear, we're talking about November 18,
23 three days later, correct?

24 A That's correct.

25 Q What did you do when you went back on the scene on the

1 18th?

2 A When we went back on the scene I took photographs again
3 in the daytime just -- that's just something that we
4 normally do. If we go out on the scene at night then we
5 usually go back in the daytime and take pictures again. I
6 took pictures in the daytime, and also took a video in the
7 daytime as well. And then, I believe, Lance Corporal
8 Bratcher set up a secure total station that we use to
9 conduct the forensic mapping. He set up that total station,
10 and then we began mapping the scene. And I believe that
11 Sergeant Duncan started back doing what we call the
12 architect, and then I finished up being the architect
13 because I believe he had somewhere he had to go or
14 something. But basically what that means is it looks a lot
15 like surveyor's equipment, so to speak, and it shoots out a
16 beam, and the person that we call the architect that's
17 holding like a prism pole, and wherever we want to point,
18 that's where that architect goes and basically draws a
19 picture, and then we can import that back into our
20 diagram and program and draw an exact scaled diagram.

21 Q And who are the architects again?

22 A Sergeant Duncan was to begin with, and then I finished
23 up as the architect.

24 Q And you said Bratcher ran the station?

25 A He did. And what that means is that he's the one

1 that's eyeing the shots, and he's also holding a data
2 collector that's collecting those shots as they come back to
3 a station.

4 Q So is that information that's recorded in the station?

5 A Yes. It's like a little handheld computer, so to
6 speak, and it's recording all those points that are -- that
7 we made at that scene.

8 Q Going back to markings and such. Did you notice any
9 tire impressions at the scene?

10 A I did. I noticed the red truck had two -- we call
11 pre-impact tire marks, meaning before the vehicles actually
12 collided. The red truck did apply his brakes and left two
13 pre-impact tire marks that lead up to the right front tire
14 -- the area of the right front tire of his vehicle at final
15 at final rest.

16 Q Do you have pictures of those marks?

17 A I do.

18 Q What do those tire impressions tell you?

19 A Tells me that he was traveling in the southbound
20 direction, saw something was coming towards him and
21 attempted to apply brakes -- or did apply brakes. Didn't
22 attempt to, but was able to apply brakes. Did it appear
23 from those tire impressions, just considering the tire
24 impressions at this point, that the victim stayed in his
25 lane?

1 A He did, without question.

2 Q You hit on gouge marks earlier. What are gouge marks?

3 A Gouges are scratches -- deep scratches in the pavement.

4 Q How are those typically caused?

5 A They're typically found around an area of impact,

6 meaning where the vehicles actually impacted each other.

7 And depending on like if a tire is busted or deflated they

8 can lead -- also lead up to final rest of the vehicle. In

9 this case there were several deep gouges, which I do have

10 pictures of, indicating the area of impact. When the

11 vehicles come together they're going to push each other and

12 then push down. So like something on the undercarriage or

13 whatever can cause that gouge mark. In this case we were

14 able to tell that those gouge marks at the area of impact

15 were found in that southbound lane indicating that's where

16 the collision occurred at.

17 Q So gouge marks are important in helping you determine

18 the area of impact?

19 A Yes. And then there were also gouge marks that led up

20 to the final rest of the blue truck due to, I believe would

21 be, left front tire on it was -- was deflated. So that

22 could possibly be where that gouge mark came from. And it

23 also had post-impact, meaning after the impact tire mark was

24 like a -- it had mud grip type tires on it that left a

25 pretty sweeping tire mark that led over to the final rest

1 after -- and that occurred after the collision.

2 Q So there were some gouge marks post-collision in the
3 blue truck's lane of travel?

4 A Correct.

5 Q But the majority of those gouge marks were in the red
6 truck's lane of travel?

7 A Right. Indicating the area of -- at the area of
8 impact.

9 Q And you said you took pictures of everything you
10 observed at the scene?

11 A I did.

12 Q I'm going to show you what's been marked as State's
13 Exhibit 23 through 35 for identification purposes. Without
14 going into detail can you just tell me if you know what
15 these are?

16 THE COURT: That's 23 to 25 did you say?

17 MR. DOWTIN: 23 through 35, Your Honor.

18 THE COURT: 35, okay.

19 A Do you want me to go through then number by number or
20 --

21 Q Or you can just -- just skim through them and let me
22 know if you know what those are and how you know what they
23 are.

24 A Okay. 23, 25 and 26 are mainly showing the gouges at
25 the area of impact.

1 Q Ms. Anderson, if you will, but you -- you took these
2 photos?

3 A I did. These are -- these are my nighttime pictures.

4 Q So you took those the night you arrived on scene?

5 A Yes, sir. I did.

6 Q And they're a fair and accurate representation of what
7 you observed that evening?

8 A They are. Yes, sir.

9 MR. DOWTIN: Your Honor, at this time State would move
10 Exhibits -- State's Exhibits 23 through 35 into evidence.

11 MR. GARRETT: Without objection.

12 THE COURT: You've already seen them? You're good?
13 Okay. Without objection, 23 through 35 into evidence for
14 the State.

15 MR. GARRETT: Subject to our prior, Judge.

16 THE COURT: Sure. Subject to your prior objection,
17 certainly.

18 (Whereupon, State's Exhibit Nos. 23 through 35 were
19 admitted into evidence.)

20 MR. DOWTIN: And, Judge, permission to publish to the
21 jury?

22 THE COURT: Sure.

23 Q Ms. Anderson, just -- I'm going to put some pictures up
24 here. And if you could, just tell me what we're looking at
25 in each of these photos and why you thought it was important

1 for your investigation.

2 A Okay.

3 Q This is State's 23.

4 THE COURT: Do you need to get down in order to see the
5 pictures?

6 THE WITNESS: I probably do. I only have one contact
7 in today, Judge.

8 THE COURT: All right. You might need to get close
9 then. Just be careful and speak up loud since you're away
10 from the microphone, Trooper. Just get in whatever area you
11 need to in order to see it.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 THE COURT: Hold on just a minute.

15 Q Again, this is State's 23, Ms. Anderson. Can you tell
16 me what we are looking at here?

17 A These are gouges here indicating the area of impact
18 here. That's the pieces off the red truck there, and that's
19 the final rest of the blue truck in the background in there.

20 Q So the red truck, you can actually see it right there
21 on the left?

22 A Well, this is just some parts off of it, but it is over
23 here to the left. And I believe that's the blue truck right
24 there. At final rest there. But these gouges are around
25 the area of impact here.

1 Q How about all that fluid in the road? What's going on
2 with that?

3 A I believe the red truck's radiator busted in the
4 collision.

5 Q How about State's No. 24?

6 A Just basically the same thing, just maybe a little bit
7 closer up showing these gouges here.

8 Q Okay. And State's 25, is that pretty much the same?

9 A Right. Just showing the gouges here. And the red
10 truck was actually pushed backwards and the right rear of it
11 was up on the guardrail. Those are our pictures of that
12 also.

13 Q State's 26. Again, the gouge marks?

14 A Yes, sir. The gougings and --

15 Q Can you tell what this little red line is right here?
16 And maybe I'll get to that in another photo, but --

17 A Yeah, it may be -- it may be the final rest of one of
18 the tires on the truck. It's hard for me to tell on that.

19 Q Okay.

20 MR. GARRETT: Counsel, what number was that last one?

21 MR. DOWTIN: 26.

22 Q State's 27.

23 A This is showing final rest of the red truck. And you
24 can see the right rear is actually up on the guardrail
25 there.

1 Q And state's 28.

2 A This orange paint here is actually the pre-impact. The
3 before the collision tire marks that I talked about earlier.
4 And they actually lead up to the area of the right front
5 tire of the truck. I believe these dual tire marks here
6 probably came from an ambulance or fire truck running
7 through the fluid up here and then heading to the hospital
8 this way.

9 Q And State's 29?

10 A This is a closer up view of the tire marks here, and
11 then there's actually a left one over here. It's a little
12 bit harder to see. But this is the southbound lane. You
13 can see the double yellow line here. Bottom line here, and
14 then the pre-impact marks left by the left red truck clearly
15 indicating that he's in his lane.

16 Q So again, why are those marks important?

17 A Well, they just show that he saw that something was
18 coming. He applied his brakes, stayed in his lane and then
19 the impact occurred in this area here.

20 Q State's No. 30.

21 A Again, the right tire mark pre-impact. And here you
22 can see the left tire mark pre-impact. So this would be the
23 truck traveling this direction and then impact occurring in
24 this area here.

25 Q And why is it that the right tire mark seems to be a

1 little more apparent than the left one? What does that
2 indicate?

3 A That -- I mean, the brakes could have been better on
4 the right side than the left side, or just those brakes --
5 I'm not a mechanical kind of person, but those brakes
6 engaged before the left side.

7 Q State's 31.

8 A Just showing the final rest of the red truck. From
9 this angle here you can see these gouges are on this side of
10 final rest indicating that the red truck is actually pushed
11 backwards at impact.

12 Q And State's 32.

13 A You can see this right side tire mark going under and
14 actually goes to the area of the right front tire indicating
15 that mark came from the right front tire of the vehicle.

16 Q State's 33.

17 A Just final rest of that vehicle.

18 Q And then State's 34.

19 A Just further down the road where you can actually see
20 the final rest of the red truck here, and the blue truck is
21 over in this area.

22 Q And State's 35? Oh, I'm sorry.

23 A That one you can see where I was talking about the
24 yellow lines to make a median for the turn onto Scotch Cross
25 which is back down here.

1 Q And again, State's 35. Is that just a little closer
2 view?

3 A It is.

4 Q And again, this fluid here. What does that typically
5 indicate?

6 A Well, it's usually found around the area of impact and
7 it can lead up to final rest. But in this case it just
8 indicates that the road is slick this way. And as you can
9 see, the radiator was busted on the red truck, so that's
10 fluid probably coming from that area. Like I said, I'm not
11 a mechanic, but -- and it's just flowing across the road as
12 it sat there.

13 Q But the majority of fluid was in the red truck's lane?

14 A That's correct.

15 Q Did you observe any break marks in the blue trucks lane
16 of travel?

17 A I did not. Not nothing pre-impact.

18 MR. DOWTIN: And, Your Honor, I was just going to kind
19 of go through these in phases. So instead of asking her to
20 come -- is it okay if I just approach her with these and ask
21 her if --

22 THE COURT: Sure. However you want to do it is fine.
23 I think you need to come back up, Trooper.

24 THE WITNESS: Yes, sir.

25 (Whereupon, the witness returned to the witness stand.)

1 Q Ms. Anderson, I'm going to show you what's been marked
2 as State's Exhibits 36 through 43.

3 A Okay.

4 Q Are these photos you recognize?

5 A They are.

6 Q You took those photos?

7 A Yes, sir. I did. They were, again, nighttime photos
8 that I took.

9 Q And they're a fair and accurate representation of the
10 photos you took that evening --

11 A Yes, sir. They are.

12 Q -- of the scene you saw that evening?

13 A yes.

14 MR. DOWTIN: Your Honor, at this time State asks to
15 move State's 36 through 43 into evidence.

16 MR. GARRETT: Subject to our same prior objection.

17 THE COURT: Okay. 36 through 43 will be into evidence
18 on behalf of the State.

19 (Whereupon, State's Exhibit Nos. 36 through 43 were
20 admitted into evidence.)

21 MR. GARRETT: Your Honor, may we approach?

22 THE COURT: Sure.

23 (Whereupon, a sidebar was held.)

24 THE COURT: Mr. Foreman, ladies and gentlemen of the
25 jury, we're going to take about a 10, 15 minute break. So

1 if you'll go back to the jury room, and again, no discussion
2 about this case, and we'll get you back out shortly.

3 (Whereupon, the jury exited the courtroom at 12:15
4 p.m.)

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 THE COURT: We'll be in recess for a few minutes.

8 (Whereupon, a recess was held from 12:15 p.m. to 12:34
9 p.m.)

10 (Whereupon, the jury entered the courtroom at 12:34
11 p.m.)

12 (Whereupon, the witness returned to the witness stand.)

13 THE COURT: Let the record reflect the jury is back in
14 the courtroom. Solicitor, are you ready to proceed forward?

15 MR. DOWTIN: Yes, Your Honor. Your Honor, may I
16 approach the witness?

17 THE COURT: Sure.

18 Q Ms. Anderson, before we broke you had a chance to skim
19 through State's Exhibits 36 through 43 and you said these
20 were pictures you took.

21 A Yes, sir.

22 Q How about pictures State's Exhibit 44 through 49? Did
23 you take those pictures as well?

24 A Yes, sir. 44 through 49 are pictures I took in the
25 daytime when we went back out to the scene.

1 Q And how about pictures -- or State's Exhibit 50 through
2 55?

3 A In 50 through 55 are pictures that I took also in the
4 daytime at the wrecker yards where the vehicles were taken
5 after the collision. The red truck was at Terry's Wrecker
6 Service in Greenwood and the blue truck was at Southern
7 Wheels Wrecker Service in Greenwood.

8 MR. DOWTIN: At this time State moves State's Exhibits
9 36 through 55 into evidence.

10 THE COURT: 36 through 43 has already been moved into
11 evidence. We did that before the break. So 44 to 49 and 50
12 to 55 subject to previous objections?

13 MR. GARRETT: Same exception.

14 THE COURT: All right. 44 through 55 will be into
15 evidence for the State.

16 MR. DOWTIN: Thank you, Your Honor.

17 (Whereupon, State's Exhibit Nos. 44 through 55 were
18 admitted into evidence.)

19 MR. DOWTIN: Ms. Anderson, if you could step down,
20 please.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 Q I'll show you what's been marked as State's Exhibit --

24 THE COURT: Wait a minute.

25 Q I'll show you what's been marked as State's Exhibit 36.

1 Can you tell me what this is a picture of?

2 A This is showing the final rest of the blue Chevrolet
3 truck and the gouges that lead up to its final rest.

4 Q Does that also -- does that appear to be -- what is
5 that there?

6 A I'm not sure if it's fluid or if that is the tire mark
7 that I had spoken about earlier.

8 Q Okay. And State's 37?

9 A Again, the gouges that lead up to the final rest of the
10 truck. Well, that's actually a pair of gloves, is what it
11 looks like.

12 Q And was this the area of impact?

13 A No, sir.

14 Q How do you know?

15 A Because these are gouges leading up to the final rest
16 of this vehicle.

17 Q And you indicated earlier that had been post-impact
18 from the damage to the blue truck --

19 A That's correct.

20 Q -- scraping the highway?

21 A Yes, sir.

22 Q How about State's 38?

23 A That's just showing the blue truck at final rest from
24 the passenger side. The top -- the top was actually cut off
25 of it for extrication purposes, as well as the rear door.

1 A This door, I presume, was intact.

2 Q So the driver's door is actually cut off?

3 A Yes, sir. But this is the passenger side right there.

4 Q And State's 39. What's this a picture of.

5 A This is the driver's side of the vehicle, steering
6 wheel. Actually the driver's door is still attached.

7 Q Do you know what that is right there? I'm trying to
8 move it out of the glare for you.

9 A Here?

10 Q Yes, ma'am. And if not, there may be another picture
11 of it.

12 A Okay.

13 Q How about State's 40?

14 A The toolbox that was from the back of the blue truck.

15 Q Did you open that toolbox?

16 A I don't believe so.

17 Q And do you recall what this is on the ground right
18 here?

19 A I believe that's a beer bottle.

20 Q What about State's 41?

21 A Just another shot of the toolbox from a different
22 angle.

23 Q Do you know what Blue Moon is?

24 A I believe that's a beer.

25 Q State's 42.

1 A Just another shot of the toolbox and beer bottle here.

2 And I believe that's a Red Stripe beer right there.

3 Q And then State's 43.

4 A This is the backseat of the blue pickup truck and
5 that's another bottle of Red Stripe beer.

6 Q Ms. Anderson, going to the pictures you said you took
7 on November 18th.

8 A Yes, sir.

9 Q How about State's Exhibit 44. What are we looking at
10 here?

11 A Over here would be the final rest of the blue pickup
12 truck. This is facing northbound. If the jurors are
13 familiar with the fairground it would be up here and the Hot
14 Spot would be back behind the -- over here would be where
15 the red truck's final rest was, and this is one of the tire
16 marks from the red truck in there.

17 Q How about State's 45?

18 A Again, facing northbound towards the fairgrounds. This
19 is the sweeping tire mark that I referred to earlier that
20 led up to the final rest of the blue truck. Tire mark here
21 from the red truck.

22 Q State's 46.

23 A Again, the gouges at the area of impact. And then this
24 is leading -- these marks are leading away to the final rest
25 of the blue truck, and then final rest of the red truck over

1 here.

2 Q So area of impact in the red truck's lane?

3 A Correct, here. Typically though gouges at the area of
4 impact are going to be deeper than the ones leading at the
5 final rest.

6 Q State's 47.

7 A Just a closer up shot of what we just looked at. Marks
8 leading to the final rest of the blue truck. And this area
9 here would indicate the front of the red truck and the tire
10 marks here.

11 Q How about State's 48?

12 A This one is actually taken southbound. The Hot Spot
13 would be down in that direction. This is beginning of the
14 right side tire mark of the red truck pre-impact before the
15 collision, and then final rest of the red truck over here.

16 Q And the last one from the daytime. That's State's 49.

17 A Just a closer up shot of the right side tire mark.

18 Q From the red truck?

19 A From the red truck in the southbound lane.

20 Q And how about State's 50?

21 A This was taken at the wrecker yard of the red truck.
22 It's showing damage to the front of the truck.

23 Q And just out of curiosity, why do you all go take
24 photos at the wrecker yard or salvage yard?

25 A Just to take them in the daytime. The things show up

1 better in the daytime. And then we typically take them all,
2 you know, 360 all the way around the vehicle.

3 Q State's 51.

4 A This is showing the passenger side of the vehicle, and
5 you can tell that the damage shifts this way indicating that
6 the initial impact would have been to the left front.

7 Q It's all on the driver's side?

8 A Correct.

9 Q How about State's 52?

10 A This is showing from the driver's side of the vehicle.
11 The damage where -- from the impact pushing everything back
12 pinning this tire, bowing it down. Knocking the running
13 boards off. I think that's actually the door frame. One of
14 the door frames there.

15 Q And State's 53.

16 A This is the blue truck at Southern Wheels Wrecker.
17 That's just the front shot of it indicating -- assuming it
18 has similar damage to the red truck. Impact to the left
19 front.

20 Q State's 54.

21 A Just showing it from the right. Right front corner.
22 It's also shifted somewhat to the red truck.

23 Q And then State's 55.

24 A Just taken from the left front corner showing the
25 damage -- pushed back here and that tire deflated.

1 MR. DOWTIN: Ms. Anderson, if you would, you can return
2 back.

3 (Whereupon, the witness returned to the witness stand.)

4 MR. DOWTIN: Your Honor, may we approach?

5 THE COURT: Sure.

6 (Whereupon, a sidebar was held.)

7 MR. DOWTIN: Your Honor, may I approach?

8 THE COURT: Sure.

9 (Whereupon, State's Exhibit No. 62 was marked for
10 identification.)

11 Q Ms. Anderson, I'm going to show you what's been marked
12 as State's Exhibit 62 for identification purposes. Do you
13 know what this is?

14 A Yes, sir. This is a video of what I took at the scene,
15 and I watched it on February 9th and I initialed it and
16 dated it there that it's my video.

17 Q So this is an accurate representation of the scene that
18 night. And also, is that the only video that it includes or
19 does it include another video?

20 A I'm not -- I think it's just mine.

21 Q No. I mean, as far as the video you took, did you just
22 take video at the scene that night?

23 A That night I only took video at the scene, and then
24 when I went in the daytime I took video of the scene and the
25 vehicles.

1 Q So at the collision yard as well?

2 A Right.

3 MR. DOWTIN: Your Honor, at this time the State would
4 move State's Exhibit 62 into evidence with permission to
5 publish to the jury.

6 MR. GARRETT: Your Honor, without objection except for
7 our previous exceptions.

8 THE COURT: Certainly.

9 MR. GARRETT: Also, as I understand it, it's
10 photographic only and not audio.

11 MR. DOWTIN: That's correct, Your Honor. There's no
12 audio.

13 THE COURT: All right, very well, into evidence, No. 62
14 for the State.

15 (Whereupon, State's Exhibit No. 62 was admitted into
16 evidence.)

17 MR. DOWTIN: I apologize, Your Honor, we're having
18 technical difficulties.

19 THE COURT: That's all right.

20 Q And, Ms. Anderson, there's no audio on this, correct?

21 A That's correct.

22 (Whereupon, State's Exhibit No. 62, video of accident
23 scene, was published for the jury.)

24 Q Ms. Anderson, what are we looking at right there?

25 A I believe it's a backpack.

1 Q You said a backpack?

2 A I think so.

3 Q Do you need to step down? Can you see anything in the
4 backpack?

5 (Whereupon, the witness steps down from the witness
6 stand.)

7 A That's a beer bottle to the left.

8 Q So you recall what type of beer it was?

9 A I do not.

10 Q Thank you.

11 (Whereupon, the witness returned to the witness stand.)

12 (Whereupon, the publishing of State's Exhibit No. 62
13 continued.)

14 Q Now, Ms. Anderson, I'm just going to let this video
15 play for a minute. But you're actually -- is this back on
16 scene a couple of days later on the 18th?

17 A It is. That placard that we do at the beginning had
18 the date and time that we went back out there. I believe it
19 was the 18th.

20 Q And then there was also -- the end of this video, what
21 did it have on it as far as the next scene location?

22 A After this would be the two wrecker services. So we
23 saw photos of that earlier?

24 A We did.

25 Q That looks like a tripod over there to the right?

1 A That would be the station that we used for the forensic
2 mapping that I had talked about earlier.

3 Q And that's where Bratcher was set up?

4 A Yes, sir.

5 Q That's where the red truck came to rest?

6 A That's correct.

7 Q The gouge marks you've already spoken of?

8 A Correct.

9 Q I'm going to stop the video there.

10 A Okay. It was cold that day, too. So if it's shaky
11 that's probably why.

12 Q Ms. Anderson, just a couple more questions. What is --
13 what does CDR stand for?

14 A Crash and data retrieval.

15 Q And what is that?

16 A It is a recorder box that some vehicles have in them
17 that will record events if an airbag is deployed. They're
18 commonly referred to as a CDR, crash data retrieval, or an
19 EDR, event data recorder.

20 Q Do you recall if either one of the vehicles in this
21 case had one?

22 A The blue truck did.

23 Q And the red truck did not?

24 A Did not.

25 Q What about ACM? What does that stand for?

1 A Airbag control model. It's another term for --
2 commonly used.

3 Q Did you conduct any interviews in the course of your
4 investigation?

5 A I did.

6 Q And those were recorded?

7 A They were.

8 Q Do you recall who you took interviews with?

9 A I interviewed a Justin Pennington who was a witness,
10 Trooper Smith, who was the primary investigating officer,
11 and Matthew Sanders who was the occupant in the red truck.
12 We attempted to interview Mr. Rowell but were unable to do
13 so. We were advised he was --

14 Q And what's a mechanical?

15 A A mechanical exam is when we bring in our team mechanic
16 to conduct a mechanical inspection of the vehicle, and in
17 all felony DUIs with death it's something that we do to make
18 sure that there was nothing mechanical wrong with the
19 vehicle that would have caused the collision.

20 Q Was a mechanical done in this case?

21 A It was.

22 Q Did you do that mechanical?

23 A No, I did not. That would have been Corporal Tommy
24 Brooks with our team.

25 Q Were you there for the mechanical?

1 A I was there. He conducted that at Southern Wheels
2 Wrecker Service and I was there.

3 Q And what were the results of that mechanical?

4 A As far as I recall, that there were no mechanical
5 issues with the vehicle that would have contributed to the
6 collision.

7 Q And that was the blue truck?

8 A Correct. The blue truck.

9 Q All right, Ms. Anderson. I'm heading home here.
10 Through the course of your investigation were you able to
11 determine direction each truck was traveling?

12 A Yes, sir.

13 Q And what direction were they traveling?

14 A The red truck was traveling southbound on SC 225, and
15 the blue truck was traveling northbound on SC 225.

16 Q And were you able to determine the area of impact of
17 these vehicles?

18 A Yes, sir. It would have been in the southbound lane of
19 SC 225, which would have been the red truck's lane.

20 Q And what would you say were the most important pieces
21 of evidence through your investigation that led you to that
22 conclusion?

23 A The pre-impact tire marks, and then the gouge marks at
24 the area of impact.

25 Q Based on your investigation, was there any lawful

1 reason for the blue truck to be in the red trucks lane of
2 travel?

3 A Not that I'm aware of.

4 Q So based on your investigation and review of this case,
5 what's your expert opinion as to what happened that night?

6 A The red truck was traveling southbound. The blue truck
7 traveling northbound. The red truck sees the blue truck
8 coming, applies brakes. The blue truck crosses the center
9 line and they impact in the southbound lane. Red truck
10 comes to rest off the right-hand shoulder of the road. The
11 southbound shoulder. Blue truck deflects off and comes to
12 rest off the northbound shoulder.

13 MR. DOWTIN: Beg's the Court's indulgence.

14 THE COURT: Sure.

15 MR. DOWTIN: Please answer any questions Defense
16 counsel may have.

17 THE COURT: Do you still want to conduct your cross
18 after lunch break?

19 MR. GARRETT: After lunch, Your Honor.

20 THE COURT: I think that makes sense because it's
21 already 1:25.

22 MR. GARRETT: Yes, sir.

23 THE COURT: Okay. Mr. Foreman, ladies and gentlemen of
24 the jury, we're going to go ahead and break for lunch. I'd
25 everyone back at -- let's see. That would be quarter till

25 BY MR. GARRETT:

1 Q Thank you, Trooper, for being with us today.

2 A Yes, sir.

3 Q Trooper, did you take a lot of photographic -- a lot of
4 pictures? Seems like there was a lot of video and a lot of
5 pictures taken.

6 A Yes, sir.

7 Q And is that customary for you to do that?

8 A Yes, sir.

9 Q I had a real difficult time trying to figure out if any
10 of this stuff was time stamped. Do you all time stamp these
11 pictures as to when you all were taking them?

12 A No, sir. It may show on the actual file of the
13 properties. The properties would probably show the date and
14 time they were taken there.

15 Q Where would that be at?

16 A Should be on the disc that you were given from the
17 Solicitor under the picture file.

18 Q The problem is it appears that the dates and times are
19 not accurate, and I don't know whether that -- I'm just
20 trying to -- and again, we know this is -- but you see --

21 A Yes, sir. But those aren't my pictures.

22 Q Okay. Those aren't yours?

23 A No, sir. The ones with the date stamp on them are from
24 a different camera and these are the ones that the troopers
25 that were initially on scene took.

1 Q So the troopers took pictures in addition to the
2 pictures you took?

3 A Yes, sir.

4 Q Yes, sir. Now, so did you ever take time to coordinate
5 your pictures with the pictures that they took?

6 A No, sir.

7 Q On that video up there I saw -- it looked like somebody
8 was going into that bag. Who was going into that bag up
9 there?

10 A It was probably me with the camera.

11 Q And did you unzip that bag?

12 A I may have. I don't remember.

13 Q Well, if I've got a closed beer in a bag that's not an
14 open bag then that's completely legal, isn't it?

15 A Yes, sir.

16 Q Okay. I mean, it's only if I've opened it do I have a
17 problem?

18 A That's correct.

19 Q Now, did you fully examine all the contents of that
20 bag?

21 A I don't remember.

22 Q Are you familiar with SLED policy about collection of
23 alcohol?

24 A I may be somewhat familiar with it. It's been a while
25 since I've been a road trooper and they deal with that more

1 than I do in a MAIT capacity.

2 Q I was listening to all those levels of courses. Man,
3 you've taken a lot of them. And a lot of them was about
4 evidence preservation.

5 A Yes, sir.

6 Q Is that true?

7 A A few. Yes, sir.

8 Q Okay. And tell the jury when you're doing evidence
9 preservation what you're supposed to be doing about that.
10 So let's suppose you got on the scene. Let's suppose that
11 you found that there's a bag, or you found that there's some
12 alcohol, or there's some beer bottles, some open beer
13 bottles, some closed beer bottles. If you feel like it's
14 important to your investigation to say one thing or the
15 other, do you collect it?

16 A No, sir. I don't in my capacity as a MAIT person.

17 Q You don't collect it. But why wouldn't you collect it?

18 A Because my job is for the collision reconstruction and
19 not to make any charges. I'm there for the collision itself
20 and not to be looking for an open container of beer, per se.

21 Q Okay. Whose responsibility would that be?

22 A That would be the investigating trooper.

23 Q In this case who was that?

24 A That would be Trooper Smith.

25 Q And is it protocol or is it proper to give false

1 information to a judge in order to get a search warrant?

2 A No, sir.

3 Q And that would be frowned upon, wouldn't it?

4 A Yes, sir.

5 Q Is that a terminable offense for misleading a judge?

6 MR. DOWTIN: Objection, Your Honor.

7 THE COURT: Sustained.

8 MR. DOWTIN: I'm not sure how that's relevant.

9 THE COURT: Sustained.

10 Q Now, so you don't know whether you've moved the bag or
11 not or opened the bag or not. I'm going to show you some
12 pictures here.

13 A Okay.

14 Q Defendant's 2, 3 and 4. And I want you to look at
15 those pictures and tell me if you see anything different in
16 those pictures. First, tell me what those pictures reflect.
17 Did you take those pictures?

18 A No, sir. But I may have taken this one, but I did not
19 take these two with the date stamp on them.

20 Q So before you got to them somebody would have taken
21 them with the date stamp?

22 A Yes, sir. The troopers that were initially on scene
23 took the ones with the date stamp on them.

24 Q Do you find them -- do you find that -- look at that
25 pair of glasses on all three and tell the jury what you see

1 on that pair of glasses in all three of those pictures? See
2 that pair of sunglasses in there?

3 A Yes, sir.

4 Q Kind of go -- call out as Defendant's 1, or whatever it
5 is, and tell me what you see as far as that Red Stripe on
6 those seats.

7 A In Defendant's 2 I don't see the Red Stripe bottle.

8 Q Hold on a minute. Now, who made that one? Is that one
9 you made?

10 A No, sir.

11 Q Okay. So before you got there that one was made?

12 A Yes, sir.

13 Q And that one doesn't have the Red Stripe on it, does
14 it?

15 A Not that I see on this picture.

16 Q Okay. I mean, it was located -- the picture that you
17 took -- the one that you took the Red Stripe was on the
18 couch on the backseat, right?

19 A Yes, sir.

20 Q Now, who took the other picture?

21 A No. 2?

22 Q Yes, ma'am.

23 A I don't know who -- who took it. It would have been
24 one of the troopers, but the day before I got there.

25 Q Well, you did a thorough investigation in order to

1 conduct your MAIT examination, didn't you?

2 A I would say so. Yes, sir.

3 Q Then you would know which one of those officers were
4 taking photographs, wouldn't you?

5 A No, sir. Because they had taken them before I got
6 there.

7 Q And you haven't reviewed them since to figure out which
8 officer took which photographs?

9 MR. DOWTIN: Your Honor, she already answered which
10 highway patrolman took the photos.

11 MR. GARRETT: She did?

12 THE COURT: I think she said one of the --

13 MR. DOWTIN: Investigator.

14 THE COURT: -- investigating troopers did, but I don't
15 think she named that trooper, what I remember her testimony
16 to be.

17 MR. DOWTIN: Correct, Your Honor. Sorry about that.

18 THE COURT: You may proceed.

19 A It would have either been Trooper Smith or Trooper
20 Bishop.

21 Q Were those the only two who could have taken pictures
22 of the vehicle before you and the MAIT team got there?

23 A Corporal -- I don't have a list of all the troopers out
24 there on scene, but I do know those three were there. And I
25 believe when I interviewed Trooper Smith I believe he told

1 me he didn't take pictures. It wasn't him that took the
2 pictures. But I don't recall who it was that took the
3 pictures. But I know those three were on the scene.

4 Q So sometime between the time of the accident, if we put
5 the time of the accident, say, sometime just prior to 7:20.

6 A Okay.

7 Q And the what time did you arrive?

8 A I arrived at approximately 2045. 8:45.

9 Q So some hour and 25 minutes later --

10 A Yes, sir.

11 Q -- you came on. Is that about right?

12 A I don't have the time that it occurred on the notes
13 that I have here.

14 Q I'll just ask, just assume for purposes of -- it's
15 around 7:20 is the first call.

16 A Okay.

17 Q And that's in your CAD report.

18 A Okay.

19 Q And you would rely upon your CAD report --

20 A Yes, sir.

21 Q -- more likely than not; is that correct?

22 A Yes, sir. It's usually -- you know, when the troopers
23 get there, assess what they have or whatever, it's
24 typically, you know, an hour, hour and a half before they
25 call us.

1 Q Okay. I noticed also in looking at that red truck, the
2 film that you took of the red truck, that there were beer
3 bottles on the -- not beer bottles, but beer cans or a beer
4 type -- excuse me, an alcoholic type beverage. Several cans
5 that were in the floorboard on the passenger side. But when
6 I looked at all the photographs it's not in there. So how
7 would pictures -- if we look -- we go back and look at it,
8 if you want to.

9 A Okay.

10 Q Could you come down and go to that section where the --
11 we were looking at the red truck on the inside of it and
12 kind of look and see if there's not some beer cans in that
13 truck, you know, where you can see them laying around?

14 A In the red truck, you mean?

15 Q Red truck. Yes, ma'am.

16 THE COURT: All right. I think you may need to solicit
17 the help of the State to --

18 MR. GARRETT: I may.

19 THE COURT: Unless you can operate --

20 MR. GARRETT: No. No. That's these young people doing
21 all that, Judge.

22 (Whereupon, the witness stepped down from the witness
23 stand.)

24 MR. GARRETT: Beg the Court's indulgence, Your Honor.

25 THE COURT: That's fine. That's fine.

1 (Whereupon, there was a pause in the proceedings.)

2 Q Where he's got the light right there, what kind of --
3 is that an alcoholic beverage?

4 THE COURT: Are you asking a question, Mr. Garrett?

5 MR. GARRETT: I am, Your Honor.

6 THE COURT: All right. We're back on the record.

7 MR. GARRETT: Back on the record. I'm sorry.

8 Q We've now -- let me make sure I set this up for the
9 jury. We've now gone back to the video that you showed us
10 just a little while ago.

11 A Yes, sir.

12 Q And I'm trying to go back through all of my pictures
13 and see whether or not that can was in the pictures that I
14 reviewed --

15 A Uh-huh.

16 Q -- and I didn't see that can in the pictures I
17 reviewed. And so, I would like to know what happened to
18 that can in the opposite vehicle. Do you have any idea?

19 A I'm not sure that I'm understanding your question.

20 Q Well, let me ask you this. If the officers had already
21 taken photographs, is it fair to say then if that photograph
22 doesn't -- that green can there, if it's -- if it's not in
23 the photographs, then it was still there when you videoed?

24 A It's there when I videoed it. Yes, sir. But I don't
25 know what it is. I can't --

1 Q Okay. And so, did you ever study that to see what that
2 is? What type of drink that is?

3 A Not that I remember.

4 MR. GARRETT: Okay. Thank you. Thank you.

5 (Whereupon, the witness returned to the witness stand.)

6 Q I'm going to show you what has been marked Defendant's
7 Exhibit 8, 9, 10 and 11.

8 Q And again, when I'm doing these photographs I'm trying
9 to look at all of them. That one's got Coroner -- Greenwood
10 Coroner across it. Could you identify that one, if you can?
11 What is that a picture of?

12 A I believe it's the backseat of the blue truck, but I --

13 Q Is it looking in through the passenger's side or the
14 driver's side?

15 A I can't tell.

16 Q And that was done by the Coroner, right? Looks like a
17 Coroner's picture?

18 A I would assume so.

19 Q Did the Coroner in relationship -- again, I'm trying to
20 get timing on pictures. Was the Coroner's pictures made
21 before you and the MAIT team began making your pictures?

22 A I can't say. I would think so, but --

23 Q Have you reviewed all of the Coroner's pictures from
24 this --

25 A No, sir. I have not.

1 Q Would you agree that looks like the bag that you may or
2 may not have opened? Does that --

3 A Yes, sir. It looks like it.

4 Q But you can't identify it? There's a Citadel/Adam
5 Rowell? Did the one you look at have a Citadel/Adam Rowell
6 on it?

7 A I don't remember that.

8 Q You don't remember?

9 A I just don't remember if it did or not.

10 Q That's fine. This is No. 9. Is that one of them that
11 you did or somebody else did?

12 A It looks like one that I did.

13 Q So which one is that? Which Defendant's exhibit?

14 A 9.

15 MR. GARRETT: Move to introduce No. 9 into evidence.

16 THE COURT: What says the State?

17 MR. DOWTIN: Without objection, Your Honor.

18 THE COURT: All right. No. 9 is in evidence for the
19 Defense.

20 (Whereupon, Defendant's Exhibit No. 9 was admitted into
21 evidence.)

22 Q This is Defendant's Exhibit 10 and it's got the
23 Greenwood Coroner on it as well.

24 A Okay.

25 Q Just look at that and see if you recognize that. Not

1 necessarily taking a picture. Do you recognize what it is?

2 A It's the passenger side of the blue truck.

3 Q Okay. So looking at it from the passenger side of the
4 blue truck into the backseat that's that blue bag?

5 A Yes, sir.

6 Q You recognize that?

7 A Yes, sir.

8 Q Is that bag closed or open, or can you tell?

9 A I can't really tell.

10 Q And you don't know when the Coroner was there onsite?

11 A I believe they were there prior to my being there,
12 because the driver of the red truck had been removed.

13 Q As an expert, did you rely upon all these pictures in
14 trying to come conclusions about this case?

15 A Yes, sir.

16 MR. GARRETT: Objection to that one?

17 MR. DOWTIN: Without objection.

18 THE COURT: All right. Without objection No. 10 is in
19 evidence on behalf of the Defense.

20 (Whereupon, Defendant's Exhibit No. 10 was admitted
21 into evidence.

22 Q No. 8. As an expert did you rely upon all the
23 photographs in coming to your conclusions?

24 A The conclusion wasn't solely my conclusion.

25 Q I understand. But they've qualified you as an expert

1 as part of the team.

2 A Yes, sir.

3 Q So it's a team effort?

4 A Yes, sir.

5 Q Did you all utilize all the photographs in coming to
6 conclusions about this case?

7 A We did our Highway Patrol photographs.

8 MR. DOWTIN: Your Honor, when we approach --

9 THE COURT: Sure.

10 MR. DOWTIN: May we approach. Excuse me.

11 THE COURT: Sure.

12 (Whereupon, a sidebar was held.)

13 MR. GARRETT: So, Judge, I've got in 7 -- excuse me.

14 I've got in -- let me see which ones I've got in and which
15 ones I don't.

16 THE COURT: You've got 9 and 10 in.

17 MR. GARRETT: Got 9 and 10 in.

18 THE COURT: Yes, sir.

19 Q And I believe you thought 9 was yours; is that right?
20 9, that was yours?

21 A I believe so. Yes, sir.

22 Q And what about 11? Is that yours?

23 A I believe so.

24 Q All right. And can you tell whether the bag's been
25 open or not in your 11?

1 A I can't tell.

2 Q Did you rely upon your pictures to come to conclusions
3 about this case?

4 A Yes, sir.

5 MR. GARRETT: Move to introduce that.

6 THE COURT: What's the State say about No. 11?

7 MR. DOWTIN: Without objection, Your Honor.

8 THE COURT: All right. Without objection 11 is into
9 evidence on behalf of the Defense.

10 (Whereupon, Defendant's Exhibit No. 11 was admitted
11 into evidence.)

12 Q Now I want you to look at Defendant 7, if you recognize
13 that.

14 A I believe it's a picture I took of the toolbox from the
15 blue truck.

16 Q And what's the significance of the toolbox?

17 A We just take pictures of everything that we see at the
18 scene and that have been knocked loose in the collision. So
19 I took pictures of it.

20 Q Okay. Did you go over into it to take pictures or just
21 kind of at a distance?

22 A Just around it, as far as I remember.

23 Q And what number is that?

24 A That's No. 7.

25 Q And did you rely upon your photographs to come to your

1 conclusions?

2 A As one of the things that we used to come to our
3 conclusions.

4 MR. GARRETT: Move to introduce No. 7.

5 THE COURT: What says the State?

6 MR. DOWTIN: None from the State, Your Honor.

7 THE COURT: All right. No. 7 is in evidence on behalf
8 of the Defense.

9 (Whereupon, Defendant's Exhibit No. 7 was admitted into
10 evidence.)

11 Q Do you recognize No. 12?

12 A I think this is a picture that I took that shows the
13 top that had been cut off of the blue truck, as well as the
14 toolbox, and the final rest of the blue truck.

15 Q In your conclusions did you conclude that the accident
16 knocked the top -- knocked the toolbox out of the truck, or
17 was the toolbox in the truck after the accident based on
18 your reconstruction?

19 A My opinion is that it was knocked loose during the
20 collision. But I don't know that for sure.

21 Q Your reconstruction didn't tell us that?

22 A No, sir.

23 Q All right. And I noticed inside of that -- did you
24 look inside of that to see that there was a car part that
25 was put in there?

1 A I believe so. Yes, sir.

2 Q Okay. And if that was cut out to get him out, is it
3 fair to say that the contents of that toolbox had been
4 manipulated or something put in there?

5 A It could have. I mean, one of the fireman could have
6 put something in there when they were cutting the top off.

7 Q And I believe in your testimony you said that there was
8 some -- there was some bottles of beer in there?

9 A I believe so.

10 Q Okay. And was there one Red Stripe in there?

11 A I believe so, and some Blue Moon.

12 Q Okay. And they were all empties?

13 A I don't -- I believe -- I don't know if they were empty
14 or if they had not been opened. I believe they had not been
15 opened.

16 Q And again, if something's in a toolbox unopen it's not
17 illegal?

18 A That's right.

19 Q And it's not illegal to have a bottle that's already
20 been consumed?

21 A As long as there's no liquid still left in it.

22 Q And the way we preserve that is we've got a method for
23 dealing with alcohol in bottles, right?

24 A Yes, sir.

25 Q Pick them up, put them in containers and all that. Was

1 that done in this case? Did you, as part of your
2 investigation, find where any of that was done on these
3 bottles?

4 A I didn't -- I didn't do it. I don't know if it was
5 done or not. But again, that was not my -- that's not why I
6 was there.

7 Q I'm not picking on you about it. I'm just -- I'm just
8 asking.

9 MR. GARRETT: Did I move to get 12 in?

10 THE COURT: No, you did not.

11 MR. GARRETT: Then I move to get 12 in.

12 MR. DOWTIN: Without objection, Your Honor.

13 THE COURT: Without objection, 12 is for the Defense.

14 (Whereupon, Defendant's Exhibit No. 12 was admitted
15 into evidence.)

16 Q You got to talk to an eyewitness that saw the wreck,
17 didn't you?

18 A I did.

19 Q What was his name?

20 A His name was Justin Pennington.

21 Q All right. And you got a tape recorded statement of
22 what he said, didn't you?

23 A Yes, sir.

24 Q Okay. Which truck did he say swerves?

25 MR. DOWTIN: Objection, Your Honor, hearsay.

1 THE COURT: Offered for the truth of the matter
2 asserted, at least it appears that way to me. I'll sustain
3 the objection.

4 Q Did you have -- did you tape record the conversation?

5 A Yes, sir.

6 Q Did you use that tape recorded conversation of that
7 witness as a method of coming to your conclusions in this
8 case?

9 A No, sir.

10 Q Why didn't you?

11 A Because the evidence found at the scene the collision
12 could not have occurred the way that that witness said that
13 it did.

14 Q Okay. So let me make sure I've got this straight. You
15 decided later on that what this witness says couldn't have
16 been true, therefore you discarded it. Is that what you're
17 telling us?

18 A Yes, sir.

19 Q How many eyewitnesses were to this thing?

20 A Just the -- that one and the occupant of the red truck.

21 Q Okay. So there was contra-testimony about who served
22 during this wreck scene?

23 A Yes, sir.

24 Q Let me ask you question. You all don't even have him
25 subpoenaed, or do you have him subpoenaed to even come here

1 today to help this jury figure this out?

2 MR. DOWTIN: Your Honor, I'm not sure how she would be
3 aware of who we plan on calling.

4 MR. GARRETT: Withdraw. I'll withdraw.

5 Q When did you come to your conclusions that what he said
6 couldn't be right, according to you, during your
7 investigation?

8 A The night I was -- I didn't talk to him until I think
9 the next week. But --

10 Q You talked to him on the 17th, didn't you, and then you
11 talked to him on the 20th?

12 A I'm not sure. I don't have it in my notes, the date
13 that I talked with him.

14 Q Okay. And what I'm interested in then is where did you
15 begin your analysis of the red truck? In other words, if
16 the red truck was coming from the fairground --

17 A Yes, sir.

18 Q -- and we know that to be a fact --

19 A Yes, sir.

20 Q -- where did you begin your analysis of the traverse of
21 the red truck?

22 A With the skid -- with the two skid marks that he left
23 on the southbound lane.

24 Q So none of his actions, or actions coming all the way
25 from the fair over there -- fairgrounds, all the way to the

1 point of the skidmarks, you all haven't even done an
2 analysis on it to see where he was before that, had you?

3 A No, sir.

4 Q Again, because you took one side and didn't look at it
5 from that side, from then coming towards the Hot Spot, you
6 only looked at it from the Hot Spot going towards the
7 skidmarks, right?

8 A No, sir. We went by the -- we always look at it in a
9 360, all the way around.

10 Q All right. Now, I was listening to you when you were
11 talking about being a -- did you call it an expert or
12 -- I'm assuming that has something to do with lighting for
13 cars. When cars throw their lights out and that kind of
14 thing?

15 A I think what you're referring to, I went to a class on
16 lamp examination.

17 Q Lamp examination. Now, of course, you examined the
18 lamps on these two vehicles for sure, didn't you?

19 A No, sir.

20 Q Wait a minute, now. You didn't check to see whether
21 they were in high beam or low beam?

22 A I did not. But I didn't conduct the general vehicle
23 exam.

24 Q I've read it and I didn't see anywhere where anybody
25 looked at it. So you can't tell us from this wreck whether

1 or not the high beams are on either vehicle?

2 A No, sir. I can't say.

3 Q Do you recall anywhere in your report where anybody
4 examined those beams?

5 A No, sir. That was never a question if anyone had --
6 usually when we do lamp exams it's to say if the lights were
7 on or off --

8 THE COURT: Wait a minute. Let her finish. Finish,
9 ma'am.

10 A That was not a question in this case.

11 Q And so, you've made sure that all the lamps, both
12 regular beam and high beams, were working on both vehicles?

13 A No, sir.

14 Q Oh, so how do you know it wasn't an issue in this case
15 if you hadn't examined it?

16 A Because there was never a question if anybody had their
17 headlights on or not.

18 Q Well, how do you know if poor Mr. -- Mr. Rowell was in
19 a coma for two weeks after this accident? There was no
20 question to you?

21 A No, sir.

22 Q It just didn't get looked at?

23 A No, sir.

24 Q All right. Now, you all are supposed to examine --
25 there's been some question about why one tire drug and one

1 didn't drag as much; is that correct?

2 A One left a longer skidmark than the other one did.

3 Q And according to you, as I heard your testimony, those
4 skidmarks ended with those tires at the end of the wreck; is
5 that correct?

6 A I said they ended in the area of the right front tire
7 of the red truck.

8 Q And what about the left front tire? How far did it go
9 into the wreck?

10 A It -- when they hit the red truck was rotated around in
11 this direction, so --

12 Q So your position is at the point -- I'm sorry. Did you
13 finish that? I'm sorry.

14 A You're fine.

15 Q Your position then at the point of impact is that the
16 left tire was in the impact and then rotated around; is that
17 correct?

18 A No, sir. That's -- the right tire and the left tire
19 both left pre-impact marks. And then this is at the area of
20 impact, and then the vehicle rotated in this direction. So
21 the left front tire that left the shorter tire mark would
22 not still be where its mark was left, but it would pivot
23 around possibly on that right front tire. It was still in
24 the same area, but the left tire wouldn't still be where --

25 Q I know it's not -- I know it's not where it was at the

1 point of impact.

2 A Right.

3 Q I guess my question, to try to make sure I understand
4 it and my expert understands it -- do you know, Mr. Matt
5 Sims?

6 A Yes, sir. I do.

7 Q He trained you didn't he, or helped train you?

8 A Yes, sir. He did.

9 Q He was your superior officer, wasn't he?

10 A He was.

11 Q Okay. I just want to make sure that when we're talking
12 about the left tire, the left tire left a mark at the end of
13 the impact zone before it went backwards?

14 A That's right.

15 Q I mean, so both the left tire and the right tire,
16 according to your report, ended at the point of impact?

17 A Yes, sir.

18 Q Were those the front tires or the back tires?

19 A The front.

20 Q Okay, that's fine. Now, did anybody do any
21 investigation of the brakes on the red truck?

22 A There was no mechanical inspection done on it.
23 Generally when we do a general vehicle exam we just check
24 the brakes just to make -- you know, just by pushing the
25 pedal.

1 Q Well, that's not what you did to Mr. Rowell's vehicle,
2 is it?

3 A No, sir.

4 Q You took the hubs and caliber and the whole nine yards
5 off and looked at each one of them, didn't you?

6 A I didn't.

7 Q Well, that's part of y'all's team effort?

8 A Our team did. Yes, sir.

9 Q Did you look at those results?

10 A I saw the report that our mechanic did. Yes, sir.

11 Q He didn't even look at the left front tire, did he?

12 A I can't answer that.

13 Q You didn't participate in that?

14 A I was there. I think I was there for when he did it,
15 and I can't say whether he looked at the left front. I
16 would imagine that he did. He usually always looks at all
17 four.

18 Q Okay. So it would make good sense that if that's the
19 point of impact, that you would look at that one and make
20 sure that that one was working correctly at the time?

21 A Right.

22 Q And so, if he did or didn't you don't really remember,
23 but that is an important point based on your science?

24 A Yes, sir.

25 Q Now, tell me about that red truck. Were you supposed

1 to take those tires off an take those hubs and those rims
2 off on that and look at it and make sure they were working
3 right?

4 A No, sir. We generally only conduct a mechanical
5 inspection on the vehicle that is at fault.

6 Q Or the one that you think is at fault? Not necessarily
7 the one that you kept an open mind on and looked at all the
8 evidence before coming to that conclusion; isn't that
9 correct?

10 A It was pretty clear cut in this case.

11 Q Okay. But you don't know anything about what was
12 happening on that alleged 40 mile an hour trip -- is that
13 what you all got that guy doing from the -- from the place
14 up there at the fairground? Did you all have him running 40
15 miles an hour from there all the way down to the point of
16 impact?

17 A I was not involved in that -- in the calculations or in
18 doing the collision report with the speeds on it.

19 Q So you didn't participate in that?

20 A No, sir. I did not do any calculations on this case.

21 Q Trooper, the speed limit out there is 55 miles an hour;
22 is that correct?

23 A That's correct.

24 Q Does it make sense that somebody is driving 40 miles an
25 hour?

1 A I've gotten behind people before on that road going 40
2 miles an hour.

3 Q You have?

4 A Yes, sir.

5 Q Often?

6 A Yes, sir.

7 Q A lot of times?

8 A I drive that road every day, Mr. Garrett.

9 Q I do, too. I was raised right behind there at Augusta
10 Fields. I've ridden that road all my life.

11 A Yes, sir.

12 Q And you've got people riding 40 miles an hour out
13 there? Maybe Sunday? Are you talking about regular?

14 A Yes, sir.

15 Q There's transfer trailer trucks go up there all the
16 time.

17 A Yes, sir. You're right.

18 Q And they're going 40 miles an hour?

19 MR. DOWTIN: Asked and answered, Your Honor, several
20 times.

21 THE COURT: It has. Sustained.

22 MR. GARRETT: Beg the Court's indulgence.

23 THE COURT: Sure. Take your time.

24 Q And as I understand it, you and your team went out
25 there and set these things to be able to examine the area

1 and whatnot. Is that what you did?

2 A The mappings that I was referring to.

3 Q The mapping?

4 A Yes, sir.

5 Q I'm sorry. That's y'all's terms. Mapping, all right.

6 So you all went out there to do mapping. You said you

7 always do a 360?

8 A Yes, sir.

9 Q How far do you go north of the accident scene, how far
10 south, how far east, how far west does your mapping take?

11 A It just depends on if it's going to be animated, if
12 it's going to be -- sometimes we do an animation on it, then
13 we usually go a little bit further. But in this case, with
14 it being in a curve and it was going to be animated, we went
15 further than just right at, you know, where the vehicles
16 ended up and right at the impact scene. We went further
17 north and south.

18 Q How far?

19 A I can't say.

20 Q Did you go the same distance in 360 north and south,
21 east and west?

22 A I don't know.

23 Q And this fellow, Pennington, was sitting right there at
24 Scotch Cross Road, wasn't he?

25 A That's where he says he was. Yes, sir.

1 Q Looking left toward the scene, right?

2 A I suppose he was.

3 Q Well, I mean, that's what he said.

4 A Yes, sir.

5 MR. GARRETT: No further questions.

6 THE COURT: Redirect, Solicitor?

7 MR. DOWTIN: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. DOWTIN:

10 Q Ms. Anderson, who did the mechanical on this case?

11 A That would have been Corporal Brooks.

12 Q And who ran the calculations in this case?

13 A Sergeant Duncan.

14 MR. DOWTIN: Beg the Court's indulgence.

15 THE COURT: Sure.

16 Q Ms. Anderson, I'm going to show you wants been marked
17 as State's 22. Is this your photo?

18 A No, sir.

19 Q And how do you know it's not your photo?

20 A Because it has a date stamp on it.

21 Q And that's a Red Stripe bottle, correct?

22 A Yes, sir.

23 Q And it's in the backseat of the blue trucks? In the
24 backseat of the blue truck?

25 A That's what it looks like. And I did see -- I remember

1 seeing a bottle in the backseat of the blue truck.

2 Q Because State's Exhibit 43 -- which is your photo,
3 correct?

4 A Yes.

5 Q You actually took a picture of that Red Stripe bottle,
6 correct?

7 A Yes, sir.

8 Q And your main concern is reconstructing the accident?

9 A Yes, sir.

10 Q So that's why you're looking for gouge marks?

11 A That's my job when we are called to a scene. We're
12 there for the collision reconstruction part.

13 Q You're looking for brake marks, fluid --

14 A Yes, sir.

15 Q -- tire marks? And you did, through the course of your
16 investigation, speak to Mr. Pennington?

17 A I did.

18 Q And you considered what he had to say through the
19 course of your investigation?

20 A Well, I mean, I was like there's no way that it could
21 have happened the way that he's saying that it happened.

22 Q And why is that?

23 A Just based on what I saw at the scene. The evidence
24 that was left at the scene. The tire marks clearly in the
25 southbound lane clearly came from the red truck, and the

1 area of impact being in the southbound lane.

2 MR. DOWTIN: Beg the Court's indulgence.

3 THE COURT: Sure.

4 MR. DOWTIN: Your Honor, can we approach real quick?

5 THE COURT: Sure.

6 (Whereupon, a sidebar was held.)

7 MR. DOWTIN: No further questions.

8 THE COURT: Anything on recross?

9 MR. GARRETT: None, Your Honor.

10 THE COURT: All right. Thank you, Trooper, you can
11 step down.

12 THE WITNESS: Thank you.

13 (Whereupon, the witness stepped down from the witness
14 stand.)

15 THE COURT: Call your next witness.

16 MR. DOWTIN: State calls Lance Corporal Brooks, Your
17 Honor.

18 TOMMY BROOKS, having first been
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. DOWTIN:

22 Q Corporal Brooks, can you please state your name for the
23 record.

24 A My name is Tommy J. Brooks.

25 Q And where are you currently employed, sir?

1 A South Carolina Highway Patrol.

2 Q About how long have you been working there?

3 A Twenty years.

4 Q Are you involved with a certain division of Highway
5 Patrol?

6 A Yes, I am. I'm a member of the MAIT team.

7 Q And what is MAIT?

8 A It's the Multidisciplinary Accident Investigation Team.

9 Q And were you employed with MAIT on November 15th --
10 November 15th, 2014?

11 A Yes, sir.

12 Q And have you attended any special schools connected
13 with your work?

14 A Yes, sir. I have a list that's longer than Trooper
15 Anderson's.

16 Q Can you hit the highlights?

17 A Yes, sir. I'll hit what we need when we come to MAIT,
18 but --

19 MR. GARRETT: We'll stipulate, Your Honor.

20 MR. DOWTIN: That's fine. I'd just like for him to --
21 just a little bit. You don't have to go into extensive
22 detail.

23 THE COURT: Notwithstanding their stipulation, if you
24 want to get some of his qualifications out that's fine. Go
25 ahead.

1 A Okay. I've had -- our core courses are at scene
2 traffic collision investigation, advanced collision
3 investigation, traffic collision reconstruction, forensic
4 mapping --

5 THE COURT: Don't go so fast for the court reporter.

6 THE WITNESS: Oh, I'm sorry, sir.

7 THE COURT: That's okay.

8 A Also I had an in-house class, a little certification
9 class that we had with First Sergeant Steve Bigham for
10 mechanical examinations for vehicles.

11 Q And, Corporal Brooks, what are some of your --

12 MR. DOWTIN: Or, Your Honor, I apologize. At this time
13 the State moves Corporal Brooks as an expert. We move to
14 have Corporal Brooks qualified as an expert.

15 THE COURT: Okay. In the area of accident
16 reconstruction?

17 MR. DOWTIN: Yes, sir.

18 THE COURT: Since Mr. Garrett had indicated he was
19 stipulating to his qualifications, I so find. You may
20 proceed.

21 MR. DOWTIN: Thank you, Your Honor.

22 Q Corporal Brooks, what are some of your day-to-day
23 responsibilities?

24 A I'm actually a corporal. I'm supervisor over a crew.
25 So I would take care of the day-to-day operations as far as

1 approving time, assigning out tasks for a particular wreck,
2 as far as interviews or field work that needs to be done. I
3 also do all the tire examinations for the State. Any time
4 that has a failure, you know, across the state they send it
5 to me. And right now I'm one of three mechanics in the
6 state that go out and take vehicles apart for these
7 inspections.

8 Q And did you do an investigation in this case, or did
9 you work on any trucks involved in a collision on November
10 15th, 2014?

11 A Yes, sir. I did. On November the 21st I went to
12 Southern Wheels Towing, which is here in Greenwood, to do an
13 inspection on a 2005 Chevrolet Silverado. A blue in color
14 truck.

15 Q And once you went on scene, I mean, what did you do --
16 what did you do next? What is a mechanical --

17 A A mechanical is -- really what we're doing as far as a
18 mechanic -- mechanical exam goes -- a lot of people think
19 about a mechanic just working on the -- or looking at an
20 engine to see how it functions. In this case, with a
21 vehicle that's been involved in a sever collision, you know,
22 we have to go out and picture the truck like it was before
23 the collision. We're looking for items on the truck that
24 are broken that are not supposed to be broken. Items that
25 are bent that don't look like they've been bent or damaged

1 during the collision itself. In this case I checked the --
2 and I'll go down my list and I should have that mechanical
3 examination form. The engine I have listed here as being
4 damaged. Of course, you saw in the photographs that it had
5 severe impact damage. It had an automatic transmission.
6 All those sections of the transmission, the housing was in
7 good shape. The output shaft, had the drive shaft at the --
8 at the front of the -- or the rear the transmission was
9 damaged. And that's just due to impact. I checked the --
10 of course, the suspension on the truck with the exception of
11 the left front. And with the left front I couldn't get -- I
12 only have hand tools to work with, so I couldn't get that
13 wheel off to look at it. I examined the steering components
14 of the truck. The rack and pinion had been damaged on the
15 left front, the steering, due to an impact, and it was
16 actually bent. It had a severe bent place right there at
17 the tire rod end on the left front. Steering wheel had both
18 impact damage coming through the truck and occupant damage
19 where the driver actually struck the steering wheel itself.
20 The power steering pump and the reservoir itself, we
21 typically go and look to try and rule out if somebody says,
22 well, you know, I had a serpentine belt. That belt broke. I
23 couldn't steer my truck or whatever. In this case there was
24 so much damage I was unable to even see it because it was
25 destroyed. I moved to the brakes on the truck. On my

1 inspection form on the right I usually list what I see. I
2 looked -- started with the right front, and I did note that
3 the rotor was smooth with some surface rust. And the
4 surface rust came after -- sometime after the wreck with
5 just the vehicle sitting there. So I don't know if it got
6 some moisture on it. But typically you won't have rust on
7 the rotors if they're functioning properly. I've got the
8 pads were about half of their thickness. The lines on it,
9 which are the brake lines, they go from metal -- regular
10 metal as they go to a caliper. The lines were -- they were
11 dry. Of course, again, the left one I couldn't remove due
12 to the impact damage on the truck. Checked the rear of the
13 -- rear brakes on the truck. They were actually drum
14 brakes. I removed the drums. Of course, I photographed
15 those also and looked at those drums. They were actually
16 smooth on the inside. They didn't have any signs of surface
17 rust. The shoes themselves -- instead of having brake pads,
18 you know, the drums have shoes that press out. They were
19 down to about a quarter of life left. The lines were,
20 parking brake was in place. The wheel cylinder, which is
21 typically were you get leaks on the rear causing problems
22 with braking weren't leaking at all but they were covered in
23 dust, and it was the same on the other side. At the end of
24 the inspection I couldn't find any kind of mechanical
25 failure or defect that would have caused the vehicle to go

1 left of center.

2 Q How long did that mechanical take?

3 A I'm not sure. I can't recall.

4 Q But ultimately you determined there was nothing wrong
5 with the blue truck that would have contributed to the
6 collision?

7 A Correct. I couldn't find anything that was broken, you
8 know, that wasn't damaged during the collision event. I
9 didn't see anything where there was any type of wear -- you
10 know, severe wear on any of the components of the truck.
11 The truck -- and again, I'm looking at it like it's supposed
12 to be. Like you're driving down the road and you pull in
13 and I have to take a look at it. It looked to be in really
14 good shape mechanically.

15 Q Was a mechanical done on the red truck?

16 A No, sir.

17 Q And why not?

18 A Well, typically what happens -- the reason we do a
19 mechanical, when they chose to do the mechanical on is in
20 this case the blue truck was the truck that went left of
21 center and, of course, the red truck was determined that it
22 was in its lane at the collision event. At impact. So with
23 that we're just trying to figure out why the blue truck was
24 left of center. And from my standpoint was there something
25 mechanical that caused it to move that way, and I couldn't

1 -- I could not find anything that would have made it move.

2 Q And, Corporal Brooks, did you have any other
3 involvement with this case?

4 A No, sir.

5 MR. DOWTIN: Beg the Court's indulgence.

6 THE COURT: Sure.

7 MR. DOWTIN: Please answer any questions Defense
8 counsel might have.

9 THE WITNESS: Yes, sir.

10 THE COURT: Mr. Garrett.

11 CROSS-EXAMINATION

12 BY MR. GARRETT:

13 Q Trooper Brooks, are you aware that there was an
14 eyewitness that saw the red truck being the one that
15 swerved?

16 A No, sir. I was not.

17 Q Okay. And this blue truck, did it have anti-lock
18 brakes on the front?

19 A I don't recall if it did or not, sir. I don't -- I
20 don't have any notes about the ADS wires being attached, so
21 --

22 Q I just wonder, if it was kind of a hybrid if there's
23 drums on the back and fancy calipers on the front, I was
24 just wondering do they even make -- you're from Brooks in
25 Walhalla?

1 A That's right.

2 Q That's you, isn't it?

3 A That's me.

4 Q You know about all this stuff?

5 A Yes, sir.

6 Q So tell me about it. Is the -- can you actually have
7 anti-lock brakes on one that's got --

8 A Some of the later model -- the later models now that
9 are heavy-duty, the Avalons brakes do offer anti-lock brakes
10 on the front. On this case -- I'd have to look back through
11 the photos, but I didn't know -- didn't know there was any
12 anti-lock brake wires. I actually look for that, but I
13 didn't see any on there.

14 Q That one side was tore all to pieces, wasn't it?

15 A Yeah, it was destroyed. I couldn't even get the wheel
16 off.

17 Q Okay. And you said you only got hand tools?

18 A That's all I got. And your expert is the one that got
19 them for me, so..

20 Q Is that right?

21 A Yeah, it's all his fault.

22 Q All right. Do you all use acetylene torches anymore?

23 A No. I think they burned a car down in the wrecker yard
24 is the reason they took them away, so -- that crew did.

25 Q So they won't let you do that anymore.

1 A No, sir.

2 Q What about -- what about those new plasma cutters they
3 got that's supposed to be a lot easier? You all don't have
4 one of those?

5 A No, sir.

6 Q I bet your dad's got one up there? Your family's got
7 one up there --

8 A No, we don't have one. We're tire people, slash, you
9 know, shade tree people.

10 Q I got you.

11 MR. GARRETT: Beg the Court's indulgence.

12 THE COURT: Sure. Take your time.

13 Q I happened to represent the gentleman that owns
14 Southern Tools, and I happen to know that he's got all this
15 equipment that we're talking about. Did you ask the
16 gentleman there at Southern Tools could you borrow his torch
17 and cut into that --

18 A No, sir. I'm not authorized to use the torches, because
19 I'm liable if I -- if I burn the car down and -- you know.
20 So we use what the Highway Patrol gives us is what
21 Lieutenant Sims at the time gave me to use.

22 Q I got you.

23 A Yes, sir.

24 MR. GARRETT: I have no further questions.

25 THE COURT: Anything in redirect?

1 MR. DOWTIN: Briefly.

2 REDIRECT EXAMINATION

3 BY MR. DOWTIN:

4 Q So Sims was the Lieutenant at the time?

5 A Yes, sir. Well, not at this time. He was my
6 lieutenant when I came to MAIT in 2008. Up until he
7 retired.

8 MR. DOWTIN: Thank you. No further questions.

9 THE COURT: Thank you, sir. You can step down.

10 All right, Mr. Foreman, ladies and gentlemen of the
11 jury, I think it would be a good time to take a short
12 afternoon break. If you'll go back to the jury room, we'll
13 get you back out shortly.

14 (Whereupon, the jury exited the courtroom at 3:52 p.m.)

15 THE COURT: We'll be in recess about 10 minutes. We
16 need to find out more about Matt Sims burning up a car. I
17 want to hear about that.

18 (Whereupon, a recess was held from 3:52 p.m. to 4:15
19 p.m.)

20 (Whereupon, the jury entered the courtroom at 4:15
21 p.m.)

22 THE COURT: Let the record reflect the jury is back in
23 the courtroom. Solicitor, are you read to call your next
24 witness?

25 MR. DOWTIN: Yes, we are, Your Honor. State calls Al

1 Duncan.

2 THE COURT: Come around, Trooper Duncan.

3 AARON LEE DUNCAN, having first been
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. DOWTIN:

7 Q Could you please state your name for the record, sir.

8 A Aaron Lee Duncan, II.

9 Q And where are you currently employed, Mr. Duncan?

10 A With the South Carolina Highway Patrol, South Carolina
11 Department of Public Safety.

12 Q And how long have you been there?

13 A Twenty-two and a half years.

14 Q Are you with a specific branch of the Highway Patrol?

15 A I currently am with the MAIT unit.

16 Q How long have you been MAIT?

17 A Since March of 2008.

18 Q And what's your position with MAIT?

19 A I'm currently a sergeant with the unit.

20 Q How long have you been the sergeant?

21 A Not quite a year.

22 Q What are some of your day-to-day responsibilities with
23 MAIT?

24 A With what I'm currently doing now I'm responsible for
25 the investigations that are covered in the 12 counties that

1 MAIT - in what's called Post A MAIT unit covers. We cover
2 all of what's Troop 2 and Troop 3, which is Greenwood,
3 Abbeville, Saluda, Edgefield, McCormick, Newberry, Laurens,
4 Anderson, Pickens, Oconee, Spartanburg and Greenville
5 counties.

6 Q And about how many crashes have you investigated?

7 A As far as over my whole career, thousands.

8 Q How about with MAIT?

9 A With MAIT unit, probably getting close to 1,000, if not
10 over.

11 Q And were you working with MAIT back on November 15th,
12 2014?

13 A On -- yes, sir. I was. I was a corporal with the MAIT
14 unit.

15 Q And have you received any specialized training
16 connected with your employment?

17 A I have. Yes, sir.

18 Q Can you just go through that a little bit for us.

19 A Yes, sir. We'll hit the highlights of it again. Some
20 of the basics with the advanced collision investigation,
21 advanced collision reconstruction, forensic mapping and some
22 of the typical stuff there.

23 MR. GARRETT: We'll stipulate, Your Honor. I'm
24 familiar with Mr. Duncan -- Trooper Duncan.

25 THE COURT: All right. I'm going to go ahead and find

1 him to be an expert in the area of accident reconstruction,
2 but I know you want him to be able to convey or summarize
3 some of his things that he's done. So you may proceed.

4 A All right, sir.

5 Q Yes, Mr. Duncan, if you could just a little bit for the
6 jury.

7 A Most everything that you've heard of here prior to be
8 sitting down, and a crash data retrieval specialist is also
9 one of my -- my certifications that plays into his
10 investigation. Energy methods and damage analysis and
11 traffic crash reconstruction would be another one. Overall
12 a little over 1,500 hours worth of training through the
13 Highway Patrol over the years, with the majority of it being
14 in collision reconstruction investigation.

15 Q Sergeant Duncan, do you remember investigating a
16 collision that occurred on November 15th, 2014 here in
17 Greenwood, South Carolina that resulted in a fatality?

18 A I do, sir.

19 Q What was your involvement with that collision?

20 A At that point in time, as I mentioned earlier, I was a
21 corporal on the unit, and my job was to supervise the
22 investigation on the road to make sure that the collision
23 scene was documented, that the crash was investigated from
24 MAIT's perspective to gather all the information needed to
25 determine the dynamics of the crash and what took place in

1 the collision?

2 Q And do you recall where that collision occurred?

3 A Yes, sir. It was on SC 225 between what would be US
4 221 and US 25 South near the intersection of Scotch Cross
5 Road.

6 Q And approximately what time did you arrive on the
7 scene?

8 A I got there about 15 minutes after Lance Corporal
9 Anderson arrived on scene, maybe 20 minutes, because I
10 actually live on the northside of Greenwood County. So she
11 got there first. I got there about 15 to 20 minutes later.
12 Somewhere around nine o'clock, a little after 9:00.

13 Q And what did you observe when you arrived on the scene?

14 A A lot of rescue squad and first responders were on
15 scene at the time, fire department. Highway Patrol still
16 had a few of the investigating officers. Brunson Smith was
17 still on scene, Lance Corporal Anderson was there and she
18 was in the process of either pictures or video. I'm not
19 sure which one of the two she was doing at the time.
20 Vehicles were still at final rest. Everyone from within the
21 vehicles, as I recall, had been either transported or
22 removed from the vehicles. So it was an active scene, yet
23 all of the people involved in the crash itself had been
24 moved and gone. Dark cold night is the best thing I can
25 remember. It was cold.

1 Q And can you describe the roadway? Like the stretch of
2 highway where the collision occurred?

3 A Sure. It's a two-lane stretch of roadway that runs
4 what's typically a north and south. It's in an area of a
5 curve, but it's a -- it's not a steep sharp curve. It's kind
6 of a sweeping curve that if you're traveling southbound
7 would break from right to left. It's a, as I mentioned,
8 two-lane roadway marked with a double yellow line down the
9 center. The fog line, or the white line, down both sides of
10 the pavement. Guardrails on some of the area. In most of
11 the area of the area of the collision. And it does split
12 out into a median because it opens up for a turn lane if you
13 would be traveling northbound on 225 to be able to turn onto
14 Scotch Cross Road. So the road gets a little bit wider the
15 further south as you go down that road.

16 Q I apologize if you answered this. But do you recall
17 the make, model and color of the two trucks involved?

18 A I have not answered that yet. There's a red Chevrolet
19 pickup truck. It would be in the early '90s model, and a --
20 I'd say an early 2000. I want to say it's a 2005 Chevrolet
21 pickup truck. It was blue in color. One red and one blue.
22 The red truck was a 2,500 and the blue truck was a 1,500
23 series vehicle.

24 Q And you briefly talked about what you did right when
25 you got on the scene. What was your additional involvement

1 on the scene that night?

2 A On scene that night we documented the -- documented the
3 scene. Lance Corporal Anderson took care of it with both
4 pictures and video. I also believe she did a field sketch
5 that night. We documented the general vehicle exams on the
6 vehicles. And that night we also secured the ACM from the
7 2005 Chevrolet.

8 Q Did you take any measurements that night?

9 A We did not take any measurements that night. No, sir.

10 Q What you did on the ACM. What is the ACM?

11 A The ACM is the airbag control module. It is a piece of
12 electronic equipment inside most vehicles. Inside every
13 vehicle that has an airbag to it, and in the majority of the
14 vehicles that also retains some data. And that data is used
15 in investigations, whether it be through the vehicle company
16 that they use it for their statistical stuff, or their
17 improvements of the vehicles, or for law enforcement when we
18 use it for crash investigations such as this.

19 Q And how about CDR? What's that stand for?

20 A Crash data retrieval. That's actually a -- there's a
21 kit called a crash data retrieval kit that's put out by
22 Bosch, and that kit is what we use to be able to access that
23 ACM, or that -- what we call -- commonly refer to as a black
24 box is the -- I guess the slang for it. That kit is used to
25 download -- or to imagine rather the information that's on

1 that box.

2 Q In this case did both vehicles have the ACM inside?

3 A It did not. The Chevrolet had the equipment on it.

4 The 2005 Chevrolet, the blue pickup truck, has the ACM in
5 it, it being a newer model truck. Chevrolet came on board
6 in 1994 and they were actually one of the first to put this
7 in the vehicle and have it accessible to be able to get
8 information from the box itself.

9 Q And what's some of the stuff the ACM tells you?

10 A Different vehicles have different information. Some of
11 them have just a change in speed or a change in velocity.
12 Some vehicles get a little bit more in-depth and go all the
13 way up where some show steering angles, some show what
14 percentage of weight the person in the passenger seat would
15 have. The driver's seat being the same way. Seatbelt.
16 Whether the seatbelt was being used by the driver or the
17 passenger. Accelerated pedal positioning. How much
18 throttle is being given, what the engine RPMs are running,
19 what speed the vehicle was running on some vehicles. Just a
20 multitude of different things that deal with what the
21 vehicle is going to do should it be involved in a crash.
22 Whether it should deploy airbags or whether it should fire
23 the pretensioners for the seatbelt so the seatbelt locks, or
24 whether it does nothing at all but just records that
25 something happened and then moves on to the next -- waiting

1 on the next event, if you will.

2 Q Now, did the ACM in this case tell you if the driver of
3 the blue truck had a seatbelt on?

4 A Yes, sir. If you have a copy of it, it would be nice
5 so I could review it, please.

6 Q And that would be actually on the CVR readout?

7 A It is. It's on the image that we get. When we do what
8 they call a download we're not able to actually manipulate
9 or use any of the data inside that box. Essentially we go
10 in and we take a picture of all the data that's in it. We
11 can change or alter or do anything with that data that's in
12 there. It kind of downloads it in to where we can have
13 access to read it and review it. There's nothing capable of
14 being changed or altered in it.

15 (Whereupon, State's Exhibit No. 63 was marked for
16 identification.)

17 MR. GARRETT: Without objection.

18 THE COURT: Is that 63?

19 MR. DOWTIN: It is, Your Honor, State's 63.

20 THE COURT: Are you offering that into evidence?

21 MR. DOWTIN: No, yet, Your Honor.

22 THE COURT: Oh, just for ID. Okay.

23 Q Sergeant Duncan, I'm going to show you what's been
24 marked as State's Exhibit 63. Can you tell me what that is?

25 A Yes, sir. That is a copy of the report that was

1 generated when we imaged the data on the airbag control
2 module for the 2005 Chevrolet.

3 Q Now, tell me a little bit about the report. Did you
4 create this initial report, or how did that go?

5 A The vehicle wreckage was so bad that night that we
6 weren't able to do what we call a DLC, or diagnostic
7 download from the port that the mechanic would use when he
8 hooks up to your car to do an inspection on your car as far
9 as why the lights are on or what's going on with the car.
10 Because of the magnitude of the damage on the front of the
11 vehicle we were unable to go that direction with it. So we
12 actually secured the ACM itself from the vehicle. We took
13 that vehicle -- or took that ACM and took it back to the
14 office and secured it to a desk so that it wouldn't move or
15 shake when I put power to it. Put power to it with a
16 computer system hooked up to it with the purposes of imagine
17 that data on there. In doing that, I put my name and my
18 information, and there's statistical information about the
19 crash, the date. The date of the crash, the date of the
20 image, information about the vehicle inspection and where
21 the image is taken care of at. So yes, I essentially
22 generated this report by doing the image on that box.

23 Q Do you have the box with you?

24 A I do, sir. Sealed it good.

25 (Whereupon, State's Exhibit No. 64 was marked for

1 identification.)

2 MR. GARRETT: Without objection.

3 Q I'm going to show you what's been marked as State's
4 Exhibit 64. It's actually marked on the box that it was
5 taken out of. But can you --

6 A I understand.

7 Q -- tell us what we're looking at here?

8 A This is the plug that would have attached the ACM, the
9 airbag control module, through the system of the vehicle.
10 Again, because of the damage in the vehicle and not wanting
11 to get inside and risk injury, or with the blood or other
12 things inside the vehicle, we got it out as quickly as
13 possible. We unscrewed the three screws from it -- or I
14 unscrewed the three screws from it and went ahead and cut
15 the plug. So I took the plug out because I have to access
16 the front of the port in order to hook it up to the
17 computer. But you can see that I've actually, and that's my
18 handwriting, written the date, the time, vehicle
19 identification number, case number, and documented that I
20 took it from the vehicle. But that is what contains the
21 data that we image.

22 MR. DOWTIN: Your Honor, at this time the State would
23 ask to move State's Exhibit 34 -- 63 and 64 into evidence.

24 MR. GARRETT: Without objection.

25 THE COURT: Without objection 63 and 64 for the State

1 into evidence.

2 (Whereupon, State's Exhibit Nos. 63 and 64 were
3 admitted into evidence.)

4 Q Going back to State's 63. Does it indicate that the
5 driver had his seatbelt on?

6 A No, sir. It says -- in the review of this analysis
7 report shows that the driver's seatbelt was unbuckled at the
8 time of the deployment.

9 Q How about whether an airbag was deployed?

10 A We actually captured two events, both of them on the
11 same ignition cycle, and that's part of what we look at.
12 The system itself keeps up with how many times the ignition
13 has been turned on, or power has been put to the box. The
14 ignition cycles at deployment were 16,450. The ignition
15 cycles at the investigation were 16,451. So it took place
16 one ignition cycle prior to us doing the image on it -- or
17 me doing the image on it. The -- if I can keep up with
18 everything I've got on it. The thing captured the
19 deployment event which shows that the airbag was deployed.
20 It also captured a non-deployment event as well during that
21 same ignition cycle period. They also have been known to
22 capture deployment level events, but this one only those two
23 kinds of events were captured.

24 MR. DOWTIN: Your Honor, may I approach?

25 THE COURT: Certainly can.

1 Q Sergeant Duncan, I'm going to show you what's been
2 marked as State's Exhibits 56 through 60. Can you tell me
3 what these photos are?

4 A Yes, sir. These are the photographs that I took when I
5 went to image the box itself at the Greenwood Patrol Office.

6 Q So you took those photos?

7 A I did.

8 Q And they are an accurate representation of the photos
9 you took?

10 A They are.

11 MR. DOWTIN: Your Honor, at this time State moves
12 State's 56 through 60 into evidence with permission to
13 publish to the jury.

14 THE COURT: All right. What says the Defense?

15 MR. GARRETT: Without objection, Your Honor.

16 THE COURT: Without objection, 56 through 60 into
17 evidence for the State.

18 (Whereupon, State's Exhibit Nos. 56 through 60 were
19 admitted into evidence.)

20 Q State's 56. What are we looking at here Sergeant
21 Duncan?

22 THE COURT: Trooper Duncan, you can step down if you
23 like to see it better.

24 THE WITNESS: Absolutely. I believe I can. Thank you
25 though.

1 A That is where I secured the ACM box that we have here.
2 That's where I secured it to the counter top. The purpose
3 of that is, again, once you put power to it it becomes
4 awake. And it's just like you'd be driving down the road in
5 the car. If something were to jostle it or something were
6 to cause a problem, then it could record another event and
7 duplicate over. So before I ever put any cables or power to
8 it I secure it to the counter top and make sure I have it in
9 a fixed fashion so that nothing can be written over.

10 Q How about State's 57?

11 A That is taking a picture of the screen of the computer
12 itself as it's going through the process of imaging the data
13 and showing you that the data has been captured and
14 everything has been doing in an appropriate manner.

15 Q And State's 58?

16 A In order for it to be captured in an appropriate manner
17 it has to go through three phases or three passes. And
18 that's indicating a photograph showing that all three passes
19 went through and that everything again was captured in an
20 appropriate manner.

21 Q State's 59?

22 A That's showing the basic connection. How everything
23 was daisy chained together in order to tie it into the
24 computer. Putting power to the box. Showing how again I
25 had the box secured to the counter. And just showing

1 everything is tied in and lined up appropriately for the
2 imagine.

3 Q And State's 60.

4 A Again, same basic picture again. This time it just
5 captures the computer screen into it showing, again, the
6 hookup and how everything's being imaged.

7 Q And once all that information is downloaded what
8 happens with all of it next?

9 A When you get the report -- as I mentioned earlier, I am
10 a crash data retrieval analyst. So I've been through the
11 training that enables me to take and look at these things
12 and line them up with the collision. As you all are well
13 aware, people have crashes all the time. Little small
14 fender-benders, little bumps together, and those things
15 would be recorded and held in the box for days, weeks.
16 Depending on the type car, how many ignition cycles it'll go
17 through before it starts erasing or overriding those things.
18 So you have to take the data that you get from the report
19 and use it in conjunction with the review of the crash
20 itself, of the crash reconstruction, to make sure that the
21 data that you're getting in the report is accurate and true
22 reflection of what took place during the crash. That the
23 data actually applies to that crash.

24 Q And you've had a chance to report?

25 A I have. I looked at it and went over it and matched up

1 the data to the crash itself.

2 Q And from the ACM can you do a speed assessment?

3 A You can. The computer itself captures and holds
4 speeds, and this one held about five seconds worth of speed.
5 So five seconds prior to the crash it locks all that data
6 in. So when it wakes up from whatever's going on and say,
7 oh, you know, something's getting ready to happen. I've got
8 to do something to protect the people within the car. It
9 starts locking in data five seconds back. And it does this
10 determination in milliseconds of what it has to do. So when
11 it does that this one, as I mentioned earlier, locked in a
12 deployment event, which means the airbags are going to
13 deploy. So whatever was happening in those milliseconds
14 that that machine woke up determined it needed to deploy
15 airbags to protect the people inside the vehicle. So that
16 was one event. And then there as a deployment level event
17 which was a very small event that it captured as well. But
18 it captured about five seconds on that, too. The five
19 seconds for the deployment level event lists the speeds, the
20 engine RPMs, the percent throttle. It goes back eight
21 seconds on the braking so that you can see whether or not
22 the person put on brakes or the brake switch was active
23 during that time period. A look at the speeds in the
24 vehicle that the machine itself captured, or that the ACM
25 captured, and it started with speeds of 66 mile an hour at

1 five seconds back, 65 mile an hour at four seconds back, 63
2 mile an hour at three seconds back. At two seconds before
3 what we call algorithm enable, or when the airbag decides to
4 blow, it shows 67 mile an hour. And at one second before
5 algorithm enable it shows 66 mile an hour. During that time
6 it shows zero percent throttle, 30 percent throttle, 40
7 percent throttle, 17 percent throttle, and zero percent
8 throttle, again respectively to the five, four, three, two
9 and one seconds. And from eight seconds to one second it
10 shows he brakes were not applied. The brakes which was not
11 on at the time, except for one second. At seven seconds
12 prior to impact there was -- brakes were applied for just
13 one second.

14 And using that, I look at the data from that. We look
15 at the investigation itself. The general vehicle exams and
16 the stats on the vehicles. We look at the things going on
17 within the crash. And we use that to determine if the
18 speeds on the ACM are accurate. And I say that because, for
19 example, I have a farm. I have a farm truck. I put a set
20 of 33s on my truck for stump clearance and pastor clearance,
21 and in doing so a larger size tire messes up what my
22 speedometer would be reading. Except knowing that, when I
23 go up to have my oil changed or have something done to my
24 car, I have the mechanic hook up the computer and dial in
25 the different size tires which calibrates my speedometer

1 closer back to where it should be, if not exactly accurate.
2 Some people do that. Not everybody does. So we'll have to
3 take that into consideration as well. So again, this says
4 66 mile an hour, and when you look at the pictures and
5 review the case he actually had a different size tires than
6 what my auto stats that we download said should be on the
7 vehicle. So I looked at that and I considered the fact that
8 maybe he did have bigger tires on the car, which would cause
9 his speedometer to be inaccurate when he's traveling. So I
10 calculated the speed on that based on if he did not have his
11 speedometer calibrated, or for some reason the tires weren't
12 taken into consideration that he had larger tires on the
13 vehicle. That's going off the auto stats of what size they
14 said should have been on the vehicle. And doing that I
15 calculated that at 66 mile an hour he would actually be
16 traveling 69 mile an hour based on the size tires that auto
17 stat said he should have had versus the size tires that he
18 had on the vehicle. But again, it's not necessarily written
19 in concrete. If he'd made that change, then the 66 would be
20 accurate. So we use that just as part of the speed analysis
21 in that. We also take that speed that we use from the ACM
22 and we applied it to some formulas in looking at what the
23 red truck would have been traveling at the time of the
24 crash, remembering that he left pre-skidmarks. We look at
25 inline situations where momentum is looked at. How much

1 speed one car is bringing in, how much speed the other car
2 is bringing in, and how they depart and how they leave.
3 It's not a perfect scenario in this case because it's not a
4 direct head-on. So the speeds that I'm going to calculate
5 are not going to be 100 percent, but they're going to be
6 ballpark figures to let you look at it and say, okay, well,
7 it makes sense when you look at the crash it could be in
8 this range. Plus, when you look at doing speeds like the
9 red truck, he actually applies brakes and slides prior to
10 impact. In looking at that there's a lot of things we can't
11 account for such as heat, sound, crush, where the metal's
12 pushed together. In this particular case he rotated
13 afterwards and hit the guardrail. I can't account for
14 things like that because there's no way to quantify how much
15 speed he lost over those times. So anything I'm getting in
16 there is just going to be a best estimate based off the
17 technology that we have as far as training and being able to
18 utilize it. And again, the technology through the ACM
19 report on that.

20 Q Your speed assessment actually changed, correct?

21 A It did. It did.

22 Q What was the deal behind that?

23 A Well, I guess I look at things different now that I'm
24 sergeant compared to when I was the corporal. When I was
25 the corporal I was throwing things together and moving on.

1 As I mentioned earlier, we cover 12 counties, so we run. We
2 went back to this one three days later. Other cases get in
3 the way and we have to go other directions sometimes. But
4 when I got to reviewing the calculations for this I noticed
5 the signage error. In doing the math, instead of having a
6 positive sign in one place -- or, excuse me, instead of
7 having a negative sign in one place as I should have had, I
8 actually had a positive sign in there which threw the speeds
9 off by about 18 mile an hour for the red truck. Nothing
10 changed for the blue truck. But in looking at the red
11 truck's perspective I'd actually messed up in my
12 calculations and had missed that part. So we turned around
13 and I made the corrections on that and reviewed it and
14 reworked it and come up with what now is a proper speed.
15 But at the time being a corporal, my job was to get it
16 together and send it through. And apparently the sergeant
17 and lieutenants at the time missed it, as well as I did.
18 Excuse me. Not to blame them completely.

19 Q And based on your second speed assessment what was the
20 estimated speed of the blue truck?

21 A The estimated speed of the blue truck, again, giving
22 the fact that he has oversized tires on the truck in
23 comparison to what my auto stats I have say, that puts him
24 at 69 mile an hour at one second prior to impact. In
25 looking at that and giving him that, thinking that there's

1 no braking going on according to the ACM, that no brakes had
2 been applied, there was no indication of braking, and
3 looking at the crash from an inline perspective for the red
4 truck, it put the impact speed of the red truck at 24.76
5 mile an hour. So 24 mile an hour. But remembering that he
6 skidded for that distance, and during that skid he lost
7 approximately 33 mile an hour for skidding. That puts the
8 pre-impact speed, where he starts skidding at, it puts him
9 at 41 mile an hour. But again, that's not going to be 100
10 percent accurate. It's going to be a ballpark figure. And
11 in looking at the crash and listening to the interviews and
12 the things that went on, it kind of makes sense in the way
13 it went, that they're going to be close to those speeds.
14 More of the blue truck is going to be closer than
15 necessarily the red truck, but it is going to be a ballpark
16 figure that would make sense.

17 Q Did the ACM in this case help you determine where in
18 the road the collision occurred?

19 A No, sir. No, sir. That's just going to be good old
20 fashioned being out there looking at it and reviewing
21 things.

22 Q Let's go to looking at it and reviewing things. When
23 you're talking about looking at it are you referring to tire
24 impressions?

25 A We're looking at that. Yes, sir. Looking at tire

1 impressions. Looking at gouges on the pavement. Looking at
2 fluid trails of the vehicles. Looking at the damage
3 profiles of the vehicles. How they actually came together
4 and impacted each other. Looking at departure of the
5 vehicles and how they separated from each other and the
6 direction they went. All of that kind of played into the
7 assessment of what took place in the crash.

8 Q Did you take any photos that night?

9 A I did not. No, sir.

10 Q Do you know who did?

11 A Lance Corporal Anderson took nighttime photographs for
12 the MAIT team. She also took daytime photographs several
13 days later and documented the vehicles in photographs,
14 again, several days later. I'm not sure which trooper took
15 the actual photograph. No, sir.

16 Q I'm going to show you what's already been moved into
17 evidence.

18 MR. DOWTIN: Your Honor, can I publish State's --

19 THE COURT: Sure.

20 MR. DOWTIN: -- 36.

21 THE COURT: What numbers?

22 MR. DOWTIN: 36 through 39. And these are out of
23 order, Your Honor. I apologize. 23 through 35, 44 through
24 49, and 50 through 55.

25 THE COURT: Okay. Now, that 36 batch, that went to 43.

1 You didn't mention 43 and I'm certainly not --

2 MR. DOWTIN: I took a couple of those out, Your Honor.

3 THE COURT: You did, okay.

4 Q Sergeant Duncan, I'm going to show you some photos and
5 just kind of get you to go through them for me, if you don't
6 mind.

7 A Certainly.

8 Q Starting with State's 23. What are we looking at here?

9 A That is the area of impact where the crash came
10 together, I guess. The red vehicle and the blue vehicle.
11 In the background you see the blue vehicle at it's final
12 rest with the first responders and all around it. You see
13 the gouges in the roadway. You see fluid where it's running
14 both away from the area of impact and across the yellow
15 lines, but you also see the fluid trail leading over towards
16 the vehicle at final rest over there.

17 Q How about State's 24?

18 A Basically the same picture, just a little bit closer
19 up. Again, you get the gouge marks in the area of impact.
20 Again, the fluid where it's running from the red vehicle
21 which is off screen and to the left. It's on the guardrail
22 there. And that's going to be where it's radiator oil,
23 things like that are emptying out onto the ground from the
24 damage. And then again you see up in the upper, I guess,
25 center left is the blue vehicle at final rest. Again, you

1 see the fluid trail to it there by the yellow line in kind
2 of a curved fashion leading in toward the front of it.

3 There's gouge marks and scratches. You can see the paint
4 identifying those things from there as well.

5 Q So the gouge marks are those white streaks, if you
6 will, between the brackets you have on there?

7 A That's correct. We've marked them and identified them
8 with the brackets because we know we're not going to be
9 doing it that night, and some of this evidence is
10 short-lived. So in order to preserve as much of it as we
11 possibly can we mark it to capture as much as we can in case
12 it gets a little fainter when we return.

13 Q State's 25, is that just pretty much of the same?

14 A Again, yes, sir. Same, just a little closer.

15 Q And State's 26?

16 A Yes, sir. Yeah. Basically the same.

17 Q How about State's 27? What's this picture tell you?

18 A That is the red pickup truck at final rest. You can
19 see where the rear-end is caught up on top of the guardrail,
20 as I mentioned to you earlier that it rotated and ended up
21 on the guardrail. Something that I can't use to account for
22 speed. You see the damage and all on the front profile of
23 it where it's more to the right -- excuse me, the left-hand
24 side of the vehicle, or the driver's side of the vehicle
25 than it is to the passenger's showing that it was an offset

1 collision as well.

2 Again, another thing that I know would be somewhat of a
3 problem with my calculations because that particular formula
4 that I used is designed for vehicles hitting head-on and you
5 just can't account for the fact that the force is not
6 traveling through the center of mass.

7 So again, best guess estimate was some of what I used.
8 But that's the stuff showing what I know I have some
9 problems in the calculations. But the damage and all right
10 there at the front of the vehicle. And that, right in front
11 of the vehicle, is where the area of impact is. It was
12 actually driven backwards as it hopped up onto that
13 guardrail and rotated, from this perspective, in what would
14 be a counterclockwise fashion. But from the perspective of
15 the driver's seat it would have rotated in a -- make sure
16 I'm getting my directions right. Yeah, in a
17 counterclockwise fashion from you.

18 Q How about State's 28?

19 A This again is looking at a different direction
20 approaching the area of impact. Again you see the pickup
21 truck at final rest. You see the rear-end caught up on the
22 guardrail. You can see the tire marks as Lance Corporal
23 Anderson had pointed out earlier there. Two tire marks
24 indicating that front brakes were locked on the pickup truck
25 prior to impact. They lead up to the area of impact, and

1 then in the area where everything kind of separated and went
2 apart. The skips -- the tandem wheels there, not exactly
3 certain what that belongs to but it does not belong to this
4 crash, from the crash itself.

5 Q And from this photo why does it appear to be easier to
6 see the right tire mark than the left?

7 A There could be a handful of different reasons for that.
8 One tire may have locked up prior to the other tire. They
9 might not be exactly the same length. One may be just not
10 as light or as dark as the other tire depending on what's
11 going on. In this particular area there's a good slope to
12 the roadway. There's going to be a lot more weight because
13 of that lean to the driver's side. There would be more
14 weight to the driver's side than the passenger side.
15 Therefore that passenger side could have locked up and made
16 a darker mark for that distance and a little bit clearer on
17 there. And there could be any number of reasons to it, but
18 it's not anything that I find shocking in the crash.

19 Q And how about State's 29 Sergeant?

20 A Again, same basic picture, just a little bit different
21 angle. You capture again the damage. Again you can see
22 that the front left wheel is pushed back into the firewall
23 and the driver's floorboard of the vehicle, kind of crushing
24 in the driver's compartment on it. And you see again that
25 it's sitting up on the guardrail, see the tire marks, and

1 you see again that it's sitting right in the area of impact
2 on top of -- or close to on top of the area of impact.

3 Q State's 30 is a little closer?

4 A Yes, sir, again.

5 Q And it looks like you can actually start to see the
6 left red marks a little bit in this photo?

7 A Yes, sir. Again, these things are short-lived as well.
8 So, you know, we're probably an hour and a half after the
9 crash when we get there, so that mark could have been
10 longer. It could have been more defined prior to us getting
11 there. Tire marks fade. Tire marks -- sometimes because of
12 the way they -- I guess just what we call short-lived
13 evidence. Just the nature of the beast, if you will.

14 Q But it's your expert opinion those are the brake marks
15 from the red truck?

16 A Absolutely.

17 Q State's 31.

18 A Just a different angle. Again, this time you can see
19 the debris field again in front where there's parts of the
20 vehicle. Some of the shattered fragments of glass or
21 plastic or metal, everything there. Still get the area of
22 impact. You can still see the gouges. Estimating looking
23 at it maybe a foot and a half off of the yellow line there
24 in the southbound lane of traffic.

25 Q How about State's 32?

1 A Side profile of the red vehicle traveling south on US
2 -- or, excuse me, SC 225. That's at final rest. Again,
3 just the damage profile. As you looked at the passenger
4 side earlier, not that it looked unscathed necessarily but
5 it did not look nearly as intense as what this side has
6 experienced in the crash.

7 Q What's the purpose of marking the tire there?

8 A That's the final rest location of the vehicles. We
9 mark that gain. We're going to come back and look at it on
10 a different day so we can map this out. And by using the
11 mapping it's a scaled diagram being created from the points
12 that we plot out using the total station, as they were
13 mention earlier. And that's what we're doing is marking
14 everything so that when we come back we can be as accurate
15 as possible with lining everything back up with our
16 reconstruction.

17 Q State's 33.

18 A Just a good -- good profile on the damage again. You
19 can see they had to cut the driver's door off because of the
20 crush back on the vehicle. Left front tire again pushed
21 back into the firewall and the driver's floorboard. But
22 again you see that the right side, the whole grill and a lot
23 of the cosmetic of the plastic pieces are missing. There's
24 not an awful lot of crush on the right side of the engine
25 block up there. Everything's on the left-hand side.

1 Q And State's 34.

2 A This would be an approach from the northbound side.

3 The direction we believe the blue truck -- or we know the
4 blue truck was traveling. Again, it shows both the final
5 rest of the blue truck off to the right on the right should
6 northbound. You can see the red truck is positioned up on
7 the guardrail from the southbound shoulder.

8 Q State's 35.

9 A And again, just a little bit closer. On this one you
10 can see some of the fluid trail dripping across. And that's
11 where the vehicle is sitting at final rest and it's still
12 leaking and pouring out its fluid. You get both vehicles at
13 their final rest out there.

14 Q State's 36.

15 A Now you're getting the departure evidence left by the
16 vehicle post-collision. That's going to be the blue truck
17 off on the right shoulder of the roadway northbound on SC
18 225. You see the gouge marks there marked with yellow
19 paint. But you also see that dark stain, and that's going
20 to be a -- the fluid trail left by the vehicle. Again, it's
21 still pouring out radiator fluid, transmission fluid,
22 whatever has been ruptured on the vehicle fluid-wise is
23 pouring out on the roadway as that vehicle travels to it's
24 spot of final rest where it comes to stop.

25 Q And State's 37.

1 A Again, same basic picture, just a little bit closure up
2 to it. There's actually a tire mark to the right of this
3 which is where the rear-end travel as the vehicle is coming
4 over. And there should be a picture of that captured in it
5 as well. I know there's a daytime picture of it. But
6 again, you see the gouges where -- something beneath the
7 vehicle where it got bent and crushed was forced downward
8 and it's out of -- out of context where it should normally
9 be, and therefore it's leaving these scratches and gouge
10 marks across the asphalt as it travels to final rest. You
11 get a real clear view of the fluid trail that you can see
12 staining the road leading right up to and under the 2005
13 pickup truck.

14 Q And how about State's 38?

15 A Passenger side of the 2005 blue Chevrolet pickup truck.
16 Roofline's been removed so they can do, you know, as much as
17 they can possibly do to help Mr. Rowell who was driving the
18 truck. Other than that, it's sitting in it's final rest
19 location. You can see the orange paint on the tires where
20 we painted it so we can come back and map it at a later
21 date. This side shows very little. Again, it's not near
22 the magnitude of damage that the driver's side shows, but you
23 can see the passenger side. The right front tire. The
24 right front fender. All of that's not bent and mangled up
25 nearly as bad as the driver's side is.

1 Q Now going to daytime photos. You said you all went
2 back a couple days later?

3 A We did.

4 Q Can you tell me what we're looking at in State's 44?

5 A We're standing in or around the area of impact. You
6 can see some of the fluid where it's run across from where
7 the red truck was on the guardrail there to the left of the
8 picture. To the center right there down the yellow line you
9 see the fluid trail that leads across the yellow line and
10 then arch over and goes over into the grass onto the
11 shoulder of the northbound side. That's going to be the
12 area that the blue pickup truck came to rest at.

13 Q State's 45.

14 A Again, looking the same basic direction. And now you
15 see the bracket and the marks going across the -- I guess
16 from the bottom right-hand side and kind of over towards
17 where the fluid trail ends. The vehicle actually slid kind
18 of a sideways pattern across there. After impact it rotates
19 off and goes in a counter-clockwise rotation. The marks
20 here going across that I just pointed out to you are the
21 rear tire of the vehicle as it's going sideways and sliding
22 over to its area of final rest. You see the fluid trail
23 where the front of the vehicle is going again. And you can
24 really catch a lot of the super elevation, or the slope of
25 the roadway. You can see that it leans more from the left

1 to the right kind of getting a downhill grade to it in this
2 picture. It shows up pretty well.

3 Q How about State's 46?

4 A Area of impact again. You see the gouge marks. You
5 see the fluid trails. The fluid trail coming from the left
6 here, it's kind of a funny shape. You see where the vehicle
7 is sat and the fluid has run across, but you also get that
8 -- it's not quite as thick of a fluid trail going back
9 towards the fog line towards the guardrail where the red
10 truck would have been sitting at. It's showing that it was
11 pushed backwards after impact. And you also catch the fluid
12 trail going across the yellow line and over to where the
13 blue truck was at final rest.

14 Q State's 49.

15 A The tire marks coming into the area of impact. The
16 pre-skidmarks left by the pickup truck. The red pickup
17 truck, 1990 model.

18 Q All right. Sergeant, just a couple more photos for you.
19 How about State's 50?

20 A The pictures that Lance Corporal Anderson took at the
21 two service. Again, you can see that there's a great deal
22 more damage to the left side. The left headlight area from
23 about center of the vehicle over really caught the largest
24 portion of the damage on the vehicle.

25 Q State's 51.

1 A Again, showing the damage profile. You can actually
2 see the pull, where the force is pulling the fender off of
3 the top of the tire and kind of pulling it towards the
4 direction. Everything's kind of crushed. Kind of making
5 the vehicle lopsided in the front, if you will.

6 Q And then State's 52.

7 A Just really showing the magnitude of the impact there
8 on the driver's side tire. The fender there above that tire
9 crushed back over toward the firewall. Just really a large
10 -- the largest part of the impact though pushing that tire
11 into the firewall.

12 Q State's 53.

13 A Blue pickup truck, 2005. And again, you're getting the
14 damage profile on it seeing that there's more to the left
15 side of the truck than there is to the right side of the
16 truck. The headlights and all have busted out. Again, that
17 stuff's real simple tear up and break in something like
18 this. You see the hood pushed back, and you get a little
19 shift of it from the right towards the left as everything's
20 starting to push in together and rotate off of each other.

21 Q Just two more photos for you Sergeant. State's 54

22 A Again, just a different look at the damage on the
23 vehicle. Again, you see that the right front fender doesn't
24 have near as much damage as you'd think. Something that
25 would be a direct head-on, which is an indication that

1 they're not lining up perfectly and straight as far as
2 head-on goes. That it is offset. You see how the door's
3 pushed up? That's an induced damage that everything's kind
4 of pushing backwards and causing things to bend out of
5 shape. Even though they're not making direct contact,
6 they're still causing damage down the side of the vehicle.

7 Q And State's 55.

8 A And the driver's side of the vehicle. You can see that
9 the front fender is pushed back and crumpled back causing
10 the driver's door to push downward. Just again, the large
11 magnitude of damage there. The front left tire pushed back
12 in towards the firewall showing that most of the impact came
13 into that driver's side on that vehicle as well from the
14 frontal area.

15 Q Sergeant Duncan, did you conduct any interviews in this
16 case?

17 A I did not. No, sir.

18 Q And other than those photos of the ACM and the
19 computer, did you take any other photos in this case?

20 A I did not. No, sir.

21 Q You didn't record any video?

22 A No, sir. I did not.

23 Q Was there an animation done in this case?

24 A There was.

25 Q How was that done?

1 A When we spoke a while ago about doing the mapping, if
2 you will, that station is used to determine distances and
3 heights of different points out there. You set the station
4 essentially to a zero spot, and then everything from there
5 is measured off of that spot. So you can bring it back in
6 to what we call CAD program, or computer assisted drawing,
7 drafting program. You've able to draw these things out to
8 scale and be really accurate with it. In doing that, once
9 you get that done, we draw up what's called CAD plates. And
10 it's essentially we're just laying out each thing, each step
11 of the way where the vehicles come together. Where the
12 vehicles end at. How the evidence is out there. Once you
13 get all those things captured together you can put it into
14 an animation program. Put the pads -- motion pads in place
15 and the vehicles will be put into motion, and you can show
16 how it all lays out as far as to scale. Put in the proper
17 speeds, or the speeds that we were able to calculate being
18 as close as we can with it. That information is derived
19 into that. And it puts everything in motion so you get an
20 animation of what took place.

21 Q And who did an animation in this case?

22 A In this particular case, Lance Corporal Chris Bratcher
23 was asked to do the animation on it.

24 Q Did you have any other involvement in this
25 investigation that's left out?

1 A I don't believe we left anything out. I think we
2 covered everything that was done.

3 Q After your investigation, after examining all the
4 photos and considering everything, is it your expert opinion
5 -- what is your expert opinion of what happened that night?

6 A It's my expert opinion on this that the red truck was
7 traveling southbound on SC 225. The blue truck was
8 traveling northbound on SC 225. At some point in time the
9 red truck observed that something was going wrong. Somebody
10 was -- in this case I believe he saw the blue truck in his
11 lane. He applied the brakes and started to stop the
12 vehicle, or tried to stop the vehicle. The blue truck is
13 left of center when they collide. Once the vehicle's
14 collide the red truck rotates off and strikes up onto the
15 guardrail and the blue truck rotates off the other direction
16 and goes out to its area of final rest on the left-hand --
17 excuse me, the northbound shoulder of SC 225.

18 MR. DOWTIN: Thank you very much, Sergeant Duncan.
19 Please answer any questions Defense counsel may have.

20 THE WITNESS: Thank you, sir.

21 THE COURT: Cross-examination, Mr. Garrett.

22 MR. GARRETT: Thank you. Can we get 23, 24 and 25?
23 Have you got those?

24 MR. DOWTIN: They're up here.

25 CROSS-EXAMINATION

- 1 BY MR. GARRETT:
- 2 Q Hello, Trooper Duncan.
- 3 A How are you, sir?
- 4 Q Good, sir. Good to see you.
- 5 A Good.
- 6 Q You see those marks right there?
- 7 A Which marks where, sir? There's a bunch of them.
- 8 Q Okay. You were talking about these marks a while ago.
- 9 A The gouge marks there in the roadway?
- 10 Q Yes, sir. Gouge marks.
- 11 A Yes, sir. I do.
- 12 Q Okay. Which car made those gouge marks?
- 13 A Cannot be accurate in telling you exactly which car
- 14 made those gouge marks. I can just tell you that both of
- 15 those cars were on the southbound side of SC 225 when those
- 16 gouge marks were made.
- 17 Q And you don't know whether it was the car moving the
- 18 fastest, or the car moving the slowest, or do you know which
- 19 ones made those?
- 20 A No, sir. I do not know which ones made those.
- 21 Q All right. And all of these are the same thing
- 22 basically?
- 23 A Pretty much. Yes, sir.
- 24 Q That's your closest -- closest view. And you don't
- 25 know which one made those?

1 A No, sir. Because both vehicles rotated after the
2 impact and it could have been made by either the red or the
3 blue truck. In looking at it, it lines up with the fluid
4 path that the blue truck leaves as it crosses over the
5 yellow line and travels out to it's area of final rest,
6 which would be an indication it could potentially be made by
7 the blue truck. But again, the red truck would have been in
8 that area and rotated backwards from the area of impact.
9 That's going to be close to where everything comes together.
10 So it could have been either truck at that point.

11 Q So it could have been the blue truck was traveling
12 along that path consistent with where it ended up going
13 across to the right?

14 A After impact. Yes, sir. That does line up, looking at
15 those marks, with that fluid trail.

16 Q At the point of impact then right there?

17 A With the area of impact. I'm not exactly certain where
18 the specific point is --

19 Q Yeah.

20 A -- but, I mean, when everything kind of starts crushing
21 in and engaging, things get pushed down toward the asphalt
22 and the marks are made like that. Again, it lines up with
23 that fluid trail that the front of the truck is leaving.
24 Again, the red truck is not backwards, and in doing so it
25 would be making a similar motion. When the two cars come

1 together --

2 Q Right.

3 A -- the two cars are left headlight to left headlight,
4 for example, and they're crushing in, they're both in that
5 area because that's how they make contact.

6 Q I understand that.

7 A So I can't say specifically which one made which mark.

8 Q So can you tell us by looking at the depth? I'm told
9 that the depth makes some kind of difference. What -- in
10 your science what does the depth mean of the -- of the gouge
11 marks?

12 A I mean, you look at the marks and some of them are
13 deeper. That's usually an area where there's a lot of force
14 pushed together, because it takes something to scratch up
15 and gouge up the asphalt. The marks left by the truck as
16 it's driving out to its area of final rest are still gouge
17 marks. They're just a lot lighter. More like scratch marks
18 than they are gouges. But that is generally an indication
19 that that's going to be the area of the impact where things
20 are really pushing together hard and forcing downward at the
21 same time.

22 Q Haven't measured all the gouge marks, I guess. Is that
23 one right there the deepest?

24 A I didn't get out and measure each one of them to see
25 how deep they were, sir.

1 Q Okay. Did you ever train with Mr. Matt Sims?

2 A I've done a lot of things with Mr. Matt Sims. Yes,
3 sir.

4 Q I just want to talk about the training part.

5 A Yes, sir. Been to training with him. Been to
6 conferences with him. I've been to different things with
7 him. Yes, sir.

8 Q Was he kind of your senior?

9 A At one point in time he was a lieutenant over the team
10 where I was a corporal at. Yes, sir.

11 Q Okay. And he sort of mentored you and a lot of others;
12 is that correct?

13 A And through the process of MAIT, yes, sir, along with
14 other people.

15 MR. GARRETT: Thank you.

16 THE COURT: Any redirect?

17 MR. DOWTIN: Just one question, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. DOWTIN:

20 Q Is there any doubt in your mind where the area of
21 impact was in this case?

22 A No doubt at all.

23 Q And that was where exactly?

24 A In the southbound lane, which would be the red pickup
25 truck's lane of SC 225.

1 MR. DOWTIN: Thank you very much.

2 THE COURT: Thank you, sir. You can step down.

3 (Whereupon, the witness stepped down from the witness
4 stand.)

5 THE COURT: Do you want to go one more? Is that what
6 the request was? Okay. Mr. Foreman, ladies and gentlemen
7 of the jury, I understand there's going to be one more for
8 today. One more witness for the State. I'm not exactly
9 sure how long that witness will be. Does anybody need a
10 break? Anybody need to make a phone call, anything?
11 Everybody good? Very good. All right, Solicitor.

12 MR. DOWTIN: State calls Lance Corporal Bratcher.

13 KRISTOPHER BRATCHER, having first
14 been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. DOWTIN:

17 Q Please state your name for the record, please.

18 A Kristopher Bratcher.

19 Q And, Mr. Bratcher, where are you currently employed?

20 A With the South Carolina Highway Patrol.

21 Q And how long have you been working for Highway Patrol?

22 A Approximately 10 years.

23 Q And are you with a certain division of Highway Patrol?

24 A Yes. I'm currently assigned to the MAIT team.

25 Q And what's your current position with MAIT?

1 A I'm an investigator with the MAIT team.

2 Q And how long do you say you've been working with MAIT?

3 A Approximately three years now.

4 Q And how about some of your day-to-day responsibilities
5 with MAIT?

6 A My day-to-day responsibilities are looking at collision
7 scenes, doing general vehicle examinations, taking
8 photographs, video, completing CAD drawings, animations,
9 some calculations, things of that nature.

10 Q In your time with MAIT do you recall approximately how
11 many accidents you've investigated?

12 A Approximately -- we do around 170 to about 200 a year.
13 So I would say around 500 or so.

14 Q And you were working with MAIT back on November 15th,
15 2014?

16 A Yes.

17 Q Do you have any specialized training as far as MAIT's
18 concerned?

19 A Yes. I have -- I have a list here.

20 Q And again --

21 MR. GARRETT: We would stipulate, Your Honor, to his
22 qualifications.

23 Q So just briefly, if you could, just tell the jury your
24 basic trainings.

25 A I've had some basic core courses which is at scene

1 collision investigation, technical collision investigation,
2 all through the South Carolina Criminal Justice Academy,
3 collision reconstruction courses. I've been to conferences
4 in Pennsylvania. I've had classes in Edgex, which is a
5 software we use to do the CAD programs and animations. And
6 as far as this case is concerned that's probably the core
7 ones that --

8 Q And what is a CAD?

9 A A CAD is just a computer assisted drawing. What it is,
10 is when we go out and map a scene we basically record points
11 and I connect the dots basically. I draw a line between the
12 dots, and in between the lines I'm able to make surfaces
13 such as asphalt or concrete or driveways or anything else.
14 I can also change lines and make them turn into guardrails.
15 I can make them yellow. I can make them a double yellow
16 line, a single yellow line, a passing lane. Things of that
17 nature.

18 Q Corporal Bratcher, do you recall investigating a
19 fatality that occurred on November 15th, 2014?

20 A Yes. I actually responded a few days later. I was
21 asked by Sergeant Duncan to come down and help do a forensic
22 mapping of the scene.

23 Q So you didn't respond that evening?

24 A No. No. When I arrived on scene there was just the
25 roadway and the evidence that was marked.

1 Q Do you recall where the collision occurred?

2 A Yes. I met him down here early that morning.

3 Q Where did the collision occur?

4 A It was on 225. I'm not really familiar with Greenwood
5 because I hardly make it down here that often. But it was
6 on 225. And I remember it was somewhere close to where our
7 -- the Greenwood patrol office is at. They were already
8 there when I got there. So I was just told to come down
9 225. I see them there and I pull over and start setting up
10 the equipment.

11 Q And what was your involvement that day when you got
12 there?

13 A Basically I just ran the station. Ended up -- Sergeant
14 Duncan and Lance Corporal Anderson kind of switched off as
15 far as architecting the scene, and I just entered the data
16 into the data collector.

17 Q How does that work as far as collecting data? You all
18 are kind of working as a unit?

19 A Basically they hold the prism pole on what they want to
20 shoot. Say they want to shoot the edge of pavement.
21 They'll hold the prism pole at the edge of pavement. I'll
22 label it as the edge of pavement, and I'll shoot that point.
23 The machine will collect that information into the data
24 collector which later we can take back and put into the
25 Edgex program. They shoot fog line, double yellow lines,